



CITY OF KIRKLAND CITY COUNCIL

Penny Sweet, Mayor • Jay Arnold, Deputy Mayor • Dave Asher • Kelli Curtis
Tom Neir • Toby Nixon • Jon Pascal • Kurt Triplett, City Manager

Vision Statement

Kirkland is one of the most livable cities in America. We are a vibrant, attractive, green and welcoming place to live, work and play. Civic engagement, innovation and diversity are highly valued. We are respectful, fair and inclusive. We honor our rich heritage while embracing the future. Kirkland strives to be a model, sustainable city that values preserving and enhancing our natural environment for our enjoyment and future generations.

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AGENDA KIRKLAND CITY COUNCIL SPECIAL MEETING City Council Chamber Wednesday, November 6, 2019 6:00 p.m. – Study Session 7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.kirklandwa.gov. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (425-587-3190) or the City Manager's Office (425-587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 425-587-3190. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

PLEASE CALL 48 HOURS IN ADVANCE (425-587-3190) if you require this content in an alternate format or if you need a sign language interpreter in attendance at this meeting.

EXECUTIVE SESSIONS may be held by the City Council only for the purposes specified in RCW 42.30.110. These include buying and selling real property, certain personnel issues, and litigation. The Council is permitted by law to have a closed meeting to discuss labor negotiations, including strategy discussions.

ITEMS FROM THE AUDIENCE provides an opportunity for members of the public to address the Council on any subject which is not of a quasi-judicial nature or scheduled for a public hearing. (Items which may not be addressed under Items from the Audience are indicated by an asterisk*.) The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. Speaker's remarks will be limited to three minutes apiece. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish to speak, then up to three proponents and up to three opponents of the matter may address the Council.

PUBLIC HEARINGS are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION*
 - a. 2019-2020 Mid-Biennial Budget
 - b. 2019-2024 Capital Improvement Program (CIP) Updates
4. *EXECUTIVE SESSION*
5. *HONORS AND PROCLAMATIONS*
6. *COMMUNICATIONS*
 - a. *Announcements*
 - b. *Items from the Audience*
 - c. *Petitions*
7. *PUBLIC HEARINGS*
 - a. 2019-2020 Mid-Biennial Budget & 2019-2024 Capital Improvement Plan (CIP) Updates

8. *SPECIAL PRESENTATIONS*

- a. Community Emergency Response Team #28 Graduation Recognition
- b. Village at Totem Lake Public Art Proposal – “Dandelions”

9. *CONSENT CALENDAR*

a. *Approval of Minutes*

- (1) October 9, 2019
- (2) October 12, 2019
- (3) October 15, 2019

b. *Audit of Accounts and Payment of Bills and Payroll*

c. *General Correspondence*

d. *Claims*

- (1) Claims for Damages

e. *Award of Bids*

f. *Acceptance of Public Improvements and Establishing Lien Period*

g. *Approval of Agreements*

h. *Other Items of Business*

- (1) Resignation of Human Services Commission Member
- (2) Resolution R-5398, Approving a City Council of Kirkland Legislative Agenda to be Addressed to the 2020 Session of the State Legislature
- (3) Resolution R-5399, Authorizing the City Manager to Execute a Real Property Purchase and Sale Agreement for the Property Located at 14256-100th Ave NE

RESOLUTIONS are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a

10. *BUSINESS*

- a. Snow and Ice Response Plan -- Winter 2019/2020
- b. 132nd Square Park Scope and Funding Options

***QUASI-JUDICIAL MATTERS** Public comments are not taken on quasi-judicial matters, where the Council acts in the role of judges. The Council is legally required to decide the issue based solely upon information contained in the public record and obtained at special public hearings before the Council. The public record for quasi-judicial matters is developed from testimony at earlier public hearings held before a Hearing Examiner, the Houghton Community Council, or a city board or commission, as well as from written correspondence submitted within certain legal time frames. There are special guidelines for these public hearings and written submittals.

ORDINANCES are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City's official newspaper.

- ↳ c. Resolution R-5400, Approving a Process IIB Permit as Applied for in Department of Planning and Building File No. ZON16-02063 by Northwest University, Located Within a Planned Area 1 Zone, and Setting Forth Conditions to Which Such Process IIB Permit Shall be Subject
- d. Shoreline Master Program Periodic Update
 - (1) Ordinance O-4700, Relating to Comprehensive Planning and Land Use and Amending the Comprehensive Plan Ordinance 3481, as Amended, to Update Chapter XVI Shoreline Area and Approving a Summary for Publication
 - (2) Ordinance O-4701, Relating to Zoning, Planning, and Land Use and Amending the Kirkland Zoning Code (O-3719 as Amended) Including Chapters 5, 83, 90, 141 and 180, and Approving a Summary Ordinance for Publication
- e. Ordinance O-4702, Relating to Zoning, Planning and Land Use, Adopting Interim Zoning Regulations for the Review Process for City Council Initiated Amendments to Chapter 90 of the Kirkland Zoning Code (KZC) Relating to Reasonable Use Exceptions
- f. Resolution R-5401, Approving the 2020 A Regional Coalition for Housing (ARCH) Administrative Budget and Work Program

11. REPORTS

- a. *City Council Regional and Committee Reports*
- b. *City Manager Reports*

- (1) Designating Voting Delegate for Sound Cities Association's 2019 Annual Meeting
- (2) Calendar Update

CITY COUNCIL COMMITTEE agendas and minutes are posted on the City of Kirkland website, www.kirklandwa.gov.

12. ITEMS FROM THE AUDIENCE

13. ADJOURNMENT

ITEMS FROM THE AUDIENCE Unless it is 10:00 p.m. or later, speakers may continue to address the Council during an additional Items from the Audience period; provided, that the total amount of time allotted for the additional Items from the Audience period shall not exceed 15 minutes. A speaker who addressed the Council during the earlier Items from the Audience period may speak again, and on the same subject, however, speakers who have not yet addressed the Council will be given priority. All other limitations as to time, number of speakers, quasi-judicial matters, and public hearings discussed above shall apply.



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Michael Olson, Director of Finance & Administration
David Goldman, Deputy Director of Finance & Administration
Shannon Olsen, Financial Planning Manager

Date: October 24, 2019

Subject: **2019-2020 MID-BIENNIAL BUDGET UPDATE**

RECOMMENDATION:

City Council holds its Mid-Biennial Budget Review on November 6th to receive an update on the City's financial condition and to review the City Manager's recommendation for adjustments to the 2019-2020 biennial budget.

BACKGROUND DISCUSSION:

State law requires that a mid-biennial review be completed after September 1st and before December 31st during the first year of the biennium. The purpose of this memo and its attachments is to provide a brief financial update to the City Council and present recommended Service Packages for 2020.

Financial Update

The September dashboard report (Attachment A) provides high level monitoring of General Fund revenues and expenditures status and a few key revenue and expenditure indicators that are especially important to watch.

As noted previously, this will be the last biennium with the full Annexation Sales Tax Credit which will result in a revenue reduction of approximately \$6 million in the 2021-2022 biennium. In preparing for this reduction, the number of service packages have been limited. The recommended service packages are primarily funded from dedicated or one-time revenues and are focused on supporting the City's Work Plan and Council Goals. The projected revenues above budget are available for one-time expenditures and to reduce the financial gap in the 2021-2022 budget. Updated forecasts will be presented to City Council in 2020 as part of the 2021-2022 Budget process.

Revenues

As part of the mid-biennial review, departments provided updated revenue estimates for 2019. Based on these estimates, total General Fund revenues through September are very close to the year-to-date expectations. Taxes are the major contributor for all revenues, with the two highest being from property tax, which is received in April-May and October-November each year, and sales tax, which is the largest revenue source and accounts for over 25% of the total revenues.

- **Sales tax** revenue through September is 12.7% higher than the same period last year. Based on the data to date, sales tax revenue for the year is estimated to be approximately 5.6% higher than budget (or \$1.4 million more). The City conservatively budgets sales tax with a modified two-year lag where the 2019 and 2020 budgets were set at the estimated 2018 revenue so the current estimate being over budget is not unexpected. The September sales tax memo (Attachment B) includes an analysis of sales tax revenue trends by business sectors and compares monthly and year-to-date data to last year.

Year-to-date revenue has exceeded budget expectations largely because of increases in the Contracting sector, which has represented 24.1% of the growth over 2018, and the Auto/Gas Retail sector, which has grown 4.6% above last year. They also happen to be the two most volatile sales tax sectors. It is prudent to interpret this strong performance cautiously, particularly for contracting. Consistent with this philosophy and in line with the modified two-year lag approach, the estimate for 2019 collections has been retained at its budgeted level and represents resources available to meet one-time needs and to fund one-time service packages as discussed later in this memo.

- **Interest Earnings** revenues are expected to end the year approximately \$830,000 higher than budgeted, due to higher than anticipated portfolio size and yield. Since the budget estimate was derived in June of 2018, the investment portfolio has increased by 7% and the interest rate has increased by 26%, from 1.71% to 2.15%. Recent Federal Reserve monetary policy decisions and the benefits of using a third-party investment advisor, which allows the City to be nimbler in responding to market changes, have contributed significantly to increased interest revenue. This unbudgeted interest represents one-time revenue that is available for one-time expenditures or for adding to reserves. In the past, higher interest earnings were often budgeted for IT capital projects. Staff are evaluating whether to reinstate this practice.
- **Business license fee** collections are above budget by \$307,665 or 8.4% to date, but down 7.9% compared to 2018. Last year's revenue was greater due to database reconciliations that resulted in back payments from formerly unlicensed businesses. Furthermore, following the transition to the State Business Licensing System, companies paid shorter *pro rata* City business license fees at the beginning of this year to align their renewal dates with the State of Washington. Revenue has been catching up as companies process their second renewals before the end of the year.
- **Development services** revenue is 6.8% or \$763,936 above budget through September, but overall 23.5% lower compared to 2018. The biggest decline comes from lower building permit demand which accounts for 58% of the total decline. The extraordinarily high revenue in 2018 was driven by large development projects, such as

Kirkland Urban and The Village at Totem Lake. Despite the decline, this year's activity remains higher than years prior to 2018.

- **Gas tax** revenues are 3.4% lower than last year and 4.5% (\$86,446) under budget through September. Gas tax is set at a fixed amount per gallon, and thereby, lower gas tax indicates less gas purchases, conceivably due to increased transit useage and the growing popularity of eco-friendly vehicles.

Other non-General Fund revenues that are estimated to be significantly higher than budgeted in 2019 include the **Real Estate Excise Tax (REET)**. REET revenue through September is \$880,769 less than the amount received last year, but due to the conservative projections used for this volatile revenue category, revenues through September have already exceeded the total annual budget by \$2,813,763. The additional revenues are available to address the City's capital needs and recommendations are being brought forward at the November 6th Council meeting update to the 2019-2024 Capital Improvements Program (CIP).

Another source that is expected to come in quite a bit higher than expected is revenue received from the Washington Ground Emergency Medical Transport (GEMT) program. The Washington GEMT program is a voluntary program that makes supplemental payments to eligible agencies who provide emergency ground ambulance services to Medicaid recipients. In 2019, the City has received \$1,433,761 in revenue and expects to receive an additional \$900,000 in November and \$1,300,000 in May 2020. The recommendation for any GEMT revenue exceeding anticipated expectations is to use it toward Fire Station capital improvements or to offset Fire Suppression overtime as discussed below.

Expenditures

Departments continue to closely monitor their expenditures in 2019. Estimates for 2019 year-end actuals are expected to be close and/or slightly under budget. The following are selected highlights of General Fund expenditures:

- Overall, General Fund expenditures are trailing budget expectations through September. The under-expenditure in 2019 for Salary and Benefits specifically is estimated to be approximately \$413,367 due to personnel cost savings from vacancies.
- **Contract Jail Costs** in the Police Department budget are estimated to be below budget. Year-to-date expenditures are 44.2% of the budget and 15.6% less than last year. The monthly average inmate days through September 2019 is 31.8% lower than in 2018.
- **Fire Suppression overtime** in 2019 is projected to be over-budget by approximately \$539,535. A portion of this is absorbed by Fire Suppression Division salary savings from vacancies, but most of it has no expenditure offset in the 2019 budget. In addition, the City is reimbursed for a portion of the East Metro Training Group (EMTG) cost. The fire overtime reserve may be used to cover the remainder of the overage, though this would deplete the reserve in year one of the biennium, leaving no remainder to cover overages in 2020. Use of GEMT revenues above estimates could be used to fund overtime or replenish the reserve. The reserve was created to be available for potential overages that could impact the General Fund. The factors driving the increased overtime include:

- o Backfills to meet the daily minimum staffing levels;
- o Vacancies from three battalion chiefs retiring earlier this year; and
- o Two long-term disabilities (over 16 months each) that ended up medically separating from service in 2019.

Fire currently has five vacancies between the battalion chief retirements and medical separations, but there are five firefighters in the Fire Academy that will fill these vacancies. Since the General Fund is appropriated at the fund level, and total fund expenditures are estimated to finish the year below budget, it not necessary to formally transfer monies from the reserve to cover the department overtime in 2019. Expenditures in this line item will continue to be monitored through 2020 to determine the necessity to transfer from reserves at the end of the biennium.

2020 Service Packages

In the 2019-2020 Budget, the City Manager's recommendations were crafted to address the community and City Council priorities within the context of the City Council goals. The funded service packages, key policy recommendations, and major capital investments were presented within the goal areas that they primarily supported. In support of the goal areas, the 2017 Performance Measures report was included as part of the 2019-2020 Budget adoption. As part of the mid-biennial update, we have included the 2018 Performance Measures document as Attachment C. Next year, the 2019 document will help inform the 2021-2022 Budget process.


As part of this mid-biennial budget review process, and consistent with guidance given during the development of the 2019-2020 Biennial Budget, the City Manager requested departments to restrict service packages for 2020 to the following categories:

- 1) Funded with new revenue or offsetting expenditure reductions.
- 2) Related to the 2019-2020 City Work Plan.
- 3) One-time investments that improve efficiency or address work backlogs.

All the service packages recommended by the City Manager are fully funded through expenditure offsets, available one-time cash or reserves, or new revenues. A summary of the recommendations is included as Attachment D, and detailed forms for each individual Service Package are included as Attachment E.

2020 SERVICE PACKAGE RECOMMENDATIONS BY GOAL AREA
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The City Manager's recommended service packages reflect Council direction and have been identified as supportive of the City's work plan for the current biennium. Similar to the presentation in the 2019-2020 Budget message, the recommended 2020 service packages are presented within the context of the City Council goal area they primarily support, although many of them support multiple goals.




PARKS, OPEN SPACES AND RECREATIONAL SERVICES

Kirkland values an exceptional park, natural areas and recreation system that provides a wide variety of opportunities aimed at promoting the community's health and enjoyment.

Goal: To provide and maintain natural areas and recreational facilities and opportunities that enhance the health and well-being of the community.

- **Privatize Cemetery RFP** – One-time use of \$35,000 for professional services to assist with and evaluate the potential of privatization of the Kirkland Cemetery, including an assessment of the financial feasibility, identification of potential operators, and recommendation of a process should the City choose to pursue privatization. The recommended funding source is the Cemetery Fund balance.
- **Synthetic Turf Strategic Plan** – One-time use of \$125,000 to perform a comprehensive review of the existing athletic facilities and programs and develop a Strategic Plan document to guide decision-making for long- and short-term capital investment in athletic fields. This would be funded with 2019 Sales Tax revenues above budget.




FINANCIAL STABILITY

Citizens of Kirkland enjoy high quality services that meet the community's priorities.

Goal: Provide a sustainable level of core services that are funded from predictable revenue.

- **Impact Fee Update** – One-time use of \$100,000 to fund a consultant to update the Transportation and Park Impact fees in 2020. This would be funded with 2019 Sales Tax revenues above budget. Staff will also be discussing with the Council whether to explore establishing Fire Impact fees. Doing so would require some additional money for this Impact Fee update project.




ECONOMIC DEVELOPMENT

Kirkland has a diverse, business-friendly economy that supports the community's needs.

Goal: To attract, retain and grow a diverse and stable economic base that supports city revenues, needed goods and services and jobs for residents.

- **Senior Planner Increase .20 FTE** – Ongoing funding of \$26,832 to expand the current ongoing .80 FTE Senior Planner position to 1.0 FTE. This would enable the department to keep pace with projects following the retirement of the current Senior Planner. This would be funded with 2019 Sales Tax revenues above budget.
- **Travel and Training (Building Division)** – One-time funding of \$20,000 for the building division's travel and training budget to add resources for staff to attend required training for the new 2020 codes, as well as support Kirkland's involvement at the regional, state, and national level. This would be funded through the development services reserve.
- **Records Management Project** – One-time funding of \$48,000 for project support to align our code enforcement hard copy records destruction procedures with the electronic records destruction to follow State retention requirements and ensure the City is compliant. This would be funded through the development services technology reserve.

	<p><i>Kirkland has a well-maintained and sustainable infrastructure that meets the functional needs of the community.</i></p> <p>Goal: To maintain levels of service commensurate with growing community requirements at optimum life-cycle costs.</p>
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- Water System Plan (WSP) Extension & Model Update** –Washington State Department of Health has allowed water systems to extend their WSP to a 10-year approval period from six if the plan can meet certain requirements. In order to align with Cascade Water Alliance's recent WSP extension and planning period, one-time funding of \$118,772 is requested to extend to 2023 with this project, as well as update our water system model, WSP CIP recommendations, perform a water system seismic analysis, and design a unidirectional flushing program. This would be funded with water/sewer's fund balance.

Other Budget Adjustments

In addition to the budget adjustments to recognize service packages recommended above, there will be a variety of other budget adjustments brought forward for Council approval in December. The adjustments will either reflect an increase in the City's budget appropriation for 2019-2020 to recognize unanticipated grant revenue, use of budgeted reserves for council directed funding, or previously approved fiscal notes.

Next Steps

The next steps for the budget process are:

November 19 **Regular Meeting**

Public Hearings on Preliminary Property Tax Levy
 Preliminary Property Tax Levy Adoption (must occur on this date)

December 10 **Regular Meeting**

Mid-Biennial Budget Adjustments Adoption
 Final 2020 Property Tax Levy Adoption (if available)
 2019-2024 CIP Update Adoption

September 2019 Financial Dashboard

October 22, 2019

Revenues:

- Total General Fund revenues through September are very close to the year-to-date expectations. Taxes are the major contributors of the revenues, with two highest numbers coming from property tax, which is received in April-May and October-November each year, and sales tax, which has the highest number for the year-to-date among other sources and accounts for over 25% of the total revenues.
- Sales tax revenues through September are 80.6% of the budget and 12.7% higher than last year. Contracting has the largest dollar gains, contributing over 37% of the total growth. Without Contracting, the year-to-date growth would have been 7.9%.
- Business license fees are doing well, but down 7.9% compared to 2018. Last year's revenue was higher due to database reconciliation that resulted in back payments from formerly unlicensed businesses. Furthermore, following the transition to the State Business Licensing System, companies are paying shorter *pro rata* City business license fees this year to align their renewal dates with the State of Washington. Nevertheless, revenues have been catching up as companies process their renewals before the end of the year as shown by lower percentage differences between May and September this year compared to last year.
- Development revenues are overall 23.5% lower compared to 2018. The biggest decline comes from lower building permits that already account for 58% of the total decline. The high revenue in 2018 was driven by large development projects, such as Kirkland Urban and The Village at Totem Lake. In spite of the decline, this year's activity remains higher than years prior to 2018.
- Gas tax revenues are 3.4% lower than last year. Gas tax is set at a fixed amount per gallon, and thereby, lower gas tax indicates less gas purchases, conceivably due to the growing popularity of eco-friendly vehicles.

Expenditures:

- Total General Fund expenditures are below expected levels in 2019, yet about the same as the expenditures through the same time last year.
- Fire suppression overtime expenditures this year are higher than the budget, mainly due to backfills to meet the daily minimum staffing levels. In addition, there were vacancies among line battalion chiefs earlier this year. However, last year expenditures were still higher due to firefighters being deployed to fight the wildfires in California, Oregon, and Washington.
- Contract jail costs are far below expected levels. Year-to-date expenditures are 44.2% of the budget and 15.6% less than last year. The monthly average inmate days through September 2019 is 31.8% lower than in 2018.
- Year-to-date fuel costs are down 11.6% compared to 2018 and at 53.7% of the budget. Earlier this year, the Fleet department had a few vacant staff positions, which caused a reduction in fuel consumption. Nevertheless, after the positions were filled, the monthly fuel costs have started to catch up and the expenditures become comparable to last year.

City of Kirkland Financial Dashboard

Annual Budget Status as of 9/30/2019

Percent of Year Complete: 75.00%

	2019 Budget	Year-to-Date Actual 2019	% Received/ % Expended	Year-to-Date Actual 2018	YTD Change: 18 to 19		Current Month	Last Month
					\$	%		
General Fund								
Total Revenues	102,898,891	77,066,318	74.9%	76,008,080	1,058,239	1.4%		
Total Expenditures	97,879,617	69,991,782	71.5%	70,024,290	(32,507)	0.0%		

Key Indicators (All Funds)

	2019 Budget	Year-to-Date Actual 2019	% Received/ % Expended	Year-to-Date Actual 2018	YTD Change: 18 to 19 (\$)	YTD Change: 18 to 19 (%)	Current Month	Last Month
Revenues								
Sales Tax	24,513,700	19,756,808	80.6%	17,536,170	2,220,639	12.7%		
Utility Taxes	14,235,451	10,143,748	71.3%	10,676,161	(532,413)	-5.0%		
Business License Fees	3,654,771	3,048,743	83.4%	3,311,435	(262,692)	-7.9%		
Development Fees	11,231,876	9,187,843	81.8%	12,005,352	(2,817,508)	-23.5%		
Gas Tax	1,913,173	1,348,434	70.5%	1,396,283	(47,849)	-3.4%		
Expenditures								
GF Salaries/Benefits	68,982,244	51,323,316	74.4%	48,645,898	2,677,418	5.5%		
Fire Suppression Overtime	837,321	1,052,696	125.7%	1,381,883	(329,187)	-23.8%		
Contract Jail Costs	522,280	230,990	44.2%	273,808	(42,818)	-15.6%		
Fuel Costs	605,882	325,229	53.7%	367,904	(42,675)	-11.6%		

Status Key

- Revenues are higher than expected or expenditures are lower than expected
- Revenues or expenditures are within expected range
- WATCH - Revenues lower/expenditures higher than expected range



NOTES:

(1) Excludes Fire Suppression Overtime



CITY OF KIRKLAND
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Michael Olson, Director of Finance & Administration
 David Goldman, Deputy Director of Finance & Administration
 Shannon Olsen, Financial Planning Manager
 Ellen Sumargo, Accountant

Date: October 18, 2019

Subject: September Sales Tax Revenue

September results reflect sales activity in July, due to the two-month lag in reporting sales tax data. Monthly sales tax revenue is **10.3 percent higher** than September 2018. Like August, all sector groups but Communications exhibited growth, primarily Auto/Gas Retail and Contracting. The following sections discuss the highlights by business sector of the month-over-month analysis and year-to-date revenue as well as key economic variables that impact sales tax.

Comparing September 2019 to September 2018

Comparing collections from the month of September this year and last year provides a better insight into business sector performance, controlling for seasonal cycles in sales, as well as occasional adjustments.

2019 Sales Tax Receipts by Business Sector-Monthly Actuals

Business Sector Group	September		Dollar Change	Percent Change	Percent of Total	
	2018	2019			2018	2019
Services	290,263	314,092	23,829	8.2%	13.9%	13.7%
Contracting	460,420	520,450	60,030	13.0%	22.1%	22.6%
Communications	42,470	39,060	(3,409)	-8.0%	2.0%	1.7%
Retail:						
Auto/Gas Retail	427,686	492,815	65,129	15.2%	20.5%	21.4%
Gen Merch/Misc Retail	262,540	284,566	22,026	8.4%	12.6%	12.4%
Retail Eating/Drinking	155,587	164,099	8,512	5.5%	7.5%	7.1%
Other Retail	244,117	264,558	20,441	8.4%	11.7%	11.5%
Wholesale	85,347	94,208	8,862	10.4%	4.1%	4.1%
Miscellaneous	115,319	124,548	9,229	8.0%	5.5%	5.4%
Total	2,083,747	2,298,396	214,648	10.3%	100%	100%

Comparing month-over-month growth, September overall sales tax collections this year are **\$214,648 (10.3 percent)** more than September 2018. **Auto/Gas Retail** had the highest growth in both dollar and percent, increasing by **\$65,129 (15.2 percent)**. In second place was **Contracting**, up **\$60,030 (13.0 percent)** over last year and remains as one of the strongest contributors. Without growth from these two sector groups, September 2019 would have been 4.3 percent higher than September 2018.

Services also showed a strong growth, contributing **\$23,829 (8.2 percent)** more from various subsectors. **General Merchandise/Miscellaneous Retail** rose by **\$22,026 (8.4 percent)** as a result of the new internet sales tax this year. **Other Retail**, led by Food & Beverage and Health & Personal Care subsectors, also grew **\$20,441 (8.4 percent)** that mainly came from new stores in a few different districts. Additionally, **Retail Eating/Drinking, Wholesale, and Miscellaneous** were all up slightly.

Communications was the only sector that declined, down **\$3,409 (8.0 percent)** compared to last year. The decline is due to a combination of falling sales at numerous companies, which is likely the result of: innovation for smartphones has stagnated (creating a saturated market), lower cable prices, as well as the growing popularity of video streaming service alternatives.

Year-to-Date Review

City of Kirkland Actual Sales Tax Receipts

Business Sector Group	YTD		Dollar Change	Percent Change	Percent of Total	
	2018	2019			2018	2019
Services	2,292,720	2,527,285	234,565	10.2%	13.1%	12.8%
Contracting	3,931,273	4,769,516	838,243	21.3%	22.4%	24.1%
Communications	411,435	585,861	174,425	42.4%	2.3%	3.0%
Retail:						
Auto/Gas Retail	3,741,859	3,915,781	173,922	4.6%	21.3%	19.8%
Gen Merch/Misc Retail	1,773,235	2,035,814	262,580	14.8%	10.1%	10.3%
Retail Eating/Drinking	1,268,651	1,375,546	106,895	8.4%	7.2%	7.0%
Other Retail	2,261,723	2,317,228	55,505	2.5%	12.9%	11.7%
Wholesale	806,293	863,973	57,680	7.2%	4.6%	4.4%
Miscellaneous	1,048,981	1,365,804	316,824	30.2%	6.0%	6.9%
Total	17,536,170	19,756,808	2,220,639	12.7%	100%	100%

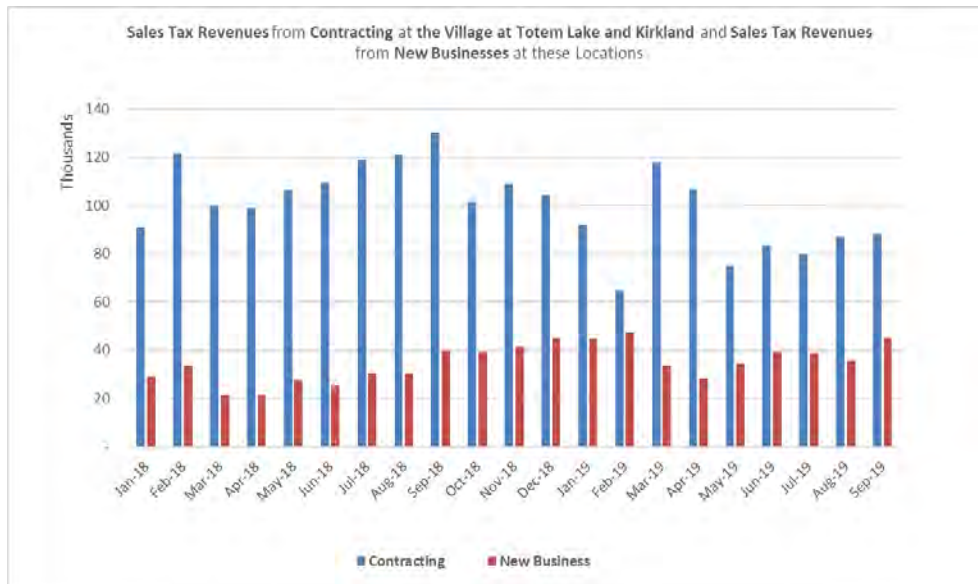
Year-to-date sales tax revenues are up **12.7 percent**. Continuing from August, all sectors are still exhibiting growth in the year-to-date comparison. **Contracting** is the most dominant contributor in dollar growth, gaining **\$838,243 (21.3 percent)** more than last year. **Miscellaneous** has the second highest dollar growth, up **\$316,824 (30.2 percent)** mainly caused by an audit payment from an equipment company, as well as a large revenue in the "unknown" category. **General Merchandise/Miscellaneous Retail** rose by **\$262,580 (14.8 percent)** due to business reclassification from **Other Retail** as well as the new internet sales tax that is becoming more apparent this year. **Services** is **\$234,565 (10.2 percent)** higher, mainly because of the growth in Admin and Professional Scientific subsectors and partially as a result of the new internet sales tax.

Communications increased by **\$174,425 (42.4 percent)** and is the highest contributor in percent. Despite lower revenue trends as mentioned above, this sector had a very large audit payment a few months ago that ended up maintaining the year-to-date growth. **Auto/Gas Retail** also gained **\$173,922 (4.6 percent)**. This industry had a couple months of decline earlier this year; however, the monthly revenues have been increasing recently, possibly due to summer inventory clearance sales. **Retail Eating/Drinking** is **\$106,895 (8.4 percent)** higher as a result of new restaurant businesses as well as a large food service company that seem to be growing in the area this year. **Wholesale** and **Other Retail** also rose slightly by **\$57,680 (7.2 percent)** and **\$55,505 (2.5 percent)** respectively.

Estimated Revenue Impact of Kirkland Urban and The Village at Totem Lake Redevelopment

Since July 2016, Financial Planning has been monitoring revenues from Contracting businesses known to be working on the redevelopment projects at Kirkland Urban and The Village at Totem Lake. Sales tax

revenues through September 2019 from these projects, as shown by the following chart, have been a significant component of overall sales tax revenue growth.



From July 2016 to September 2019, the City has receipted over **\$3.3 million** from companies known to be working on these large redevelopment projects. This represents almost 20% of total collections from contracting over that period; however, this should be considered an *approximation* rather than a precise number, as this amount includes all activity from some contractors, even though some of their contributions may be from other locations within Kirkland. It also does not include sales tax from contracting firms that are only small contributors to these locations that are doing other work in Kirkland. The chart above also shows sales tax revenues from new businesses that have opened at The Village at Totem Lake. It is worth noting that for retailers with multiple locations in Kirkland, only a portion of their sales are allocated to the new businesses for the purpose of this chart.

National and Regional Economic Context

Information about wider trends in the economy provides a mechanism to help understand current results in Kirkland, as well as to predict future performance. The combination of consumer confidence, unemployment levels, housing data, inflation and auto sales provides a broader economic context for key factors in sales tax revenues. The table below includes the most recently available data and prior month's readings, for some of the most relevant indicators.

2019 Wider Economic Indicators

Indicator	Most Recent Month of Data	Unit	Month			Yearly Average	
			Current	Previous	Change	2019	2018
Consumer Confidence							
Consumer Confidence Index	September	Index	125.1	135.1	(10.0)	128.7	130.4
Unemployment Rate							
National	August	%	3.5	3.7	(0.2)	3.7	3.9
Washington State	July	%	4.5	4.4	0.1	4.7	4.5
King County	July	%	3.1	2.8	0.3	3.2	3.5
Kirkland	July	%	3.0	2.8	0.2	3.1	3.3
Housing							
New House Permits	July	Thousands	54.2	41.2	13.0	47.3	44.4
Seattle Area Home Prices	July	Index	256.1	255.5	0.6	250.7	248.7
Inflation (CPI-W)							
National	September	% Change	1.5	1.5	0.0	1.6	2.6
Seattle	August	% Change	2.5	1.7	0.8	2.2	3.3
Car Sales							
New Vehicle Registrations	August	Thousands	23.5	22.8	0.7	23.9	25.0

The Conference Board **Consumer Confidence Index** dropped 10 points in September, down to 125.1 in September from 135.1 in August.

The national **Unemployment Rate** in August decreased to 3.5 percent after staying at 3.7 percent for two months. In contrast, Washington State unemployment increased slightly from 4.4 percent in June to 4.5 percent in July. Likewise, King County unemployment went up from 2.8 percent in June to 3.1 percent in July. Similarly, the unemployment rate in Kirkland also jumped to 3 percent in July after remaining at 2.8 percent in both May and June.

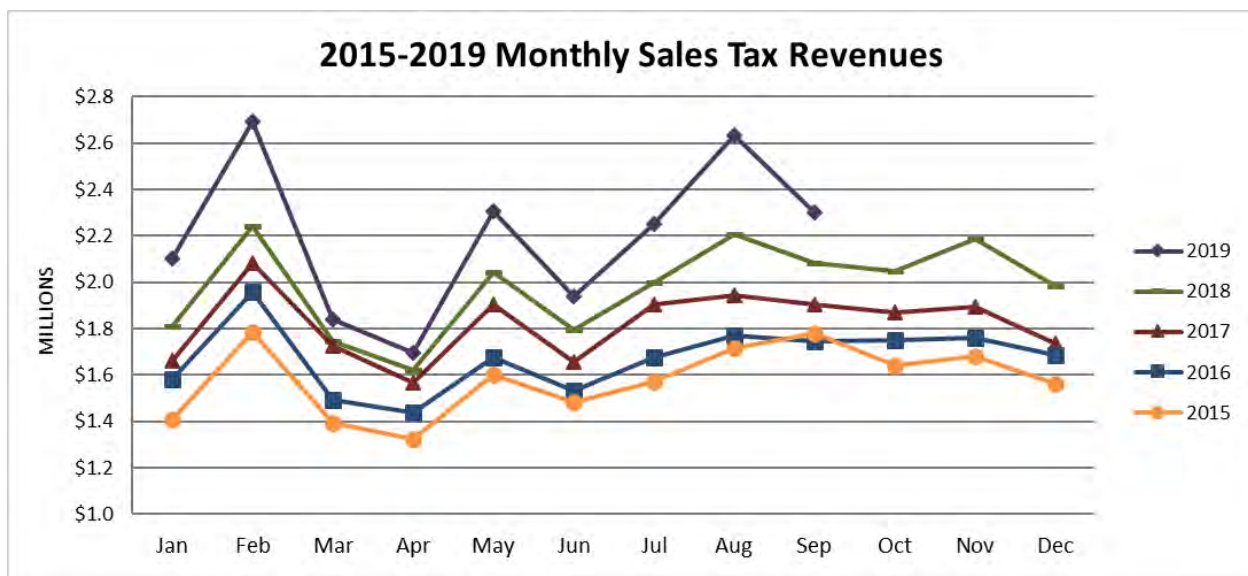
The **New Housing Permits** had a big rebound in July, up to 54,200 from 41,200 in June. The **Case-Shiller Home Price Index** remains high, up again from 255.54 in June to 256.13 in July and was the highest number for the year-to-date. Subsequently, the closed home sales in July reached a 12-month high since June 2018.

Inflation for Seattle-Tacoma-Bellevue, as measured by the CPI-W, was up to 2.5 percent in August after staying in the low at 1.7 percent in June. It remains consistently higher than the national average mainly due to housing costs. On the national level, inflation stayed at 1.5 percent and has not gone above 2.0 percent for the year-to-date so far.

New Vehicle Registrations went up slightly to 23,500 in August from 22,800 in July after going down for three consecutive months. The rise was presumably affected by the Labor Day weekend that was part of the August sales reporting period this year following the summer inventory clearance sales.

Conclusion

The chart below shows Kirkland's monthly sales tax revenues through September 2019 compared to the four prior years.



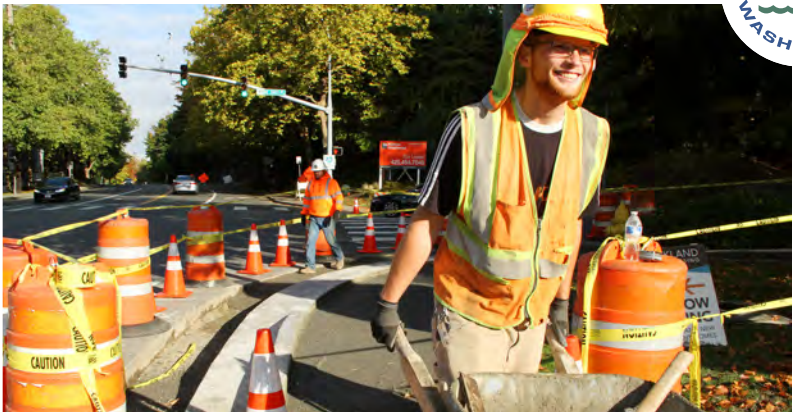
Contracting is the primary driver in year-over-year growth, contributing over 37 percent of the total growth by itself. The month-over-month growth; however, is led by Auto/Gas Retail in addition to Contracting. It is also worth noting that there were large audit payments from Communications and Miscellaneous earlier this year. All sectors combined, 2019 year-to-date revenues are **12.7 percent** above those seen at the same time last year.

Adjusting for the surge in Contracting, and the impact of audit payments from Communications and Miscellaneous, year-to-date growth would have been 5.3 percent.

City of Kirkland

Performance Measures

2018



ACKNOWLEDGEMENTS

2018 Council

Mayor

Amy Walen

Deputy Mayor

Jay Arnold

Councilmembers

David Asher

Tom Neir

Toby Nixon

Jon Pascal

Penny Sweet

City Manager

Kurt Triplett

Contributing Departments

City Manager's Office

Human Resources

Finance & Administration

Fire Department

Parks & Community Services

Planning & Building Development

Police Department

Public Works

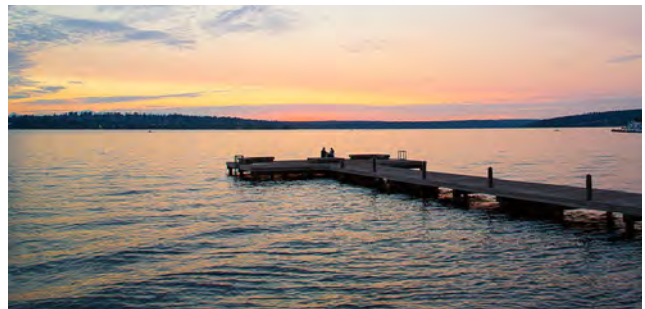
Report Design and Staff

Dimitri Ancira

David Goldman

Mara Isaacson

David Wolbrecht



On the cover: Events from throughout 2018 including; Pet-A-Palooza, Touch-a-Truck at City Hall for All, road work and Totem Lake projects, with the Cultural Arts Commission 'Crane in its Vigilance' at the Kirkland Justice Center.

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Special Thanks

David Barnes – Senior Planner
 Kyle Butler – Financial Planning Supervisor
 Heather Lantz-Brazil – Administrative Assistant
 Tim Day – Deputy Fire Chief
 Jenna McInnis – Recycling Programs Coordinator
 Lorrie McKay - Intergovernmental Relations and
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 Deb Powers - Urban Forester
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 Kellie Stickney - Communications Program Manager
 Mike Ursino – Police Captain
 Rosalie Wessels – Administrative Assistant
 David Wolbrecht – Neighborhood Outreach Coordinator

Your City Council strives to be a decisive, responsive government. This performance report is one of the key ways we accomplish this goal.

Each year, with the help of a dedicated staff, we pursue a work plan to successfully keep our City moving forward by establishing defined targets, setting concrete goals and reporting back to you, our community, so that you can assess how we are doing.

This Performance Measures Report helps us recognize, and share, our successes and areas in need of improvement. We design the report around the Council's ten goals:

Balanced Transportation

Dependable Infrastructure

Attracting Economic Development

Coordinated Human Services

Housing for Diverse Income & Needs

Neighborhood Participation

Public Safety

Parks, Recreation and Open Space

Financial Stability

Environmental Protection

The City Council and staff use this report as one of several tools to inform budgets, prioritize projects and establish strategies. These performance measures are City-wide, which means they encompass all departments and services from Parks and Recreation to Public Safety. These goals play an important role in achieving our commitment to transparent, responsive, decisive action united with fiscal responsibility in work plans and budgets.

This issue of the Performance Report shares the challenges and successes of 2018 in Kirkland. We saw a strong City that continues to prosper and implement strategies for maintaining the quality of life we all enjoy, while mitigating pressures from regional growth. The Kirkland Urban and The Village at Totem Lake projects are examples of how strategic development helps us to accommodate growth, bringing exciting new services, new jobs and new housing opportunities to our community as we grow and create a sense of place.

Looking to Kirkland's future, we plan to maintain our vibrant livable city where housing, jobs, and retail spaces occur in mixed-use communities. We continue to work towards an ever more connected and transit-oriented city that includes new urban villages while preserving single family neighborhoods. Growth presents challenges such as traffic and housing affordability. We strive to meet these challenges with innovative solutions while maintaining a sustainable financial plan, living within our means while providing the highest possible service. We are committed to keeping our community engaged and connected to the region and each other in our changing times.

This report seeks to provide insight into how we measure and maintain our standards as a city. We hope that you will review our work and provide us with comments and suggestions. Working together, we will keep Kirkland one of the best places to live, work, and play.

Yours sincerely,



Amy Walen
Mayor, City of Kirkland



VISION STATEMENT

Kirkland is an attractive, vibrant and inviting place to live, work and visit. Our lakefront community is a destination for residents, employees and visitors. Kirkland is a community with a small-town feel, retaining its sense of history, while adjusting gracefully to changes in the twenty-first century.

CITY COUNCIL GOALS

The purpose of the City Council Goals is to articulate key policy and service priorities for Kirkland. Council goals guide the allocation of resources through the budget and capital improvement program to assure that organizational work plans and projects are developed that incrementally move the community towards the stated goals. Council goals are long term in nature. The City's ability to make progress toward their achievement is based on the availability of resources at any given time. Implicit in the allocation of resources is the need to balance levels of taxation and community impacts with service demands and the achievement of goals.

PUBLIC SAFETY

Ensure that all those who live, work and play in Kirkland are safe.

Council Goal: Provide for public safety through a community-based approach that focuses on prevention of problems and a timely response.

DEPENDABLE INFRASTRUCTURE

Kirkland has a well-maintained and sustainable infrastructure that meets the functional needs of the community.

Council Goal: Maintain levels of service commensurate with growing community requirements at optimum life-cycle costs.

BALANCED TRANSPORTATION

Kirkland values an integrated multi-modal system of transportation choices.

Council Goal: Reduce reliance on single occupancy vehicles and improve connectivity and multi-modal mobility in Kirkland in ways that maintain and enhance travel times, safety, health and transportation choices.

ECONOMIC DEVELOPMENT

Kirkland has a diverse, business-friendly economy that supports the community's needs.

Council Goal: Attract, retain and grow a diverse and stable economic base that supports City revenues, needed goods and services and jobs for residents.

PARKS AND RECREATION

Kirkland values an exceptional park, natural areas and recreation system that provides a wide variety of opportunities aimed at promoting the community's health and enjoyment.

Council Goal: Provide and maintain natural areas and recreational facilities and opportunities that enhance the health and well being of the community.

ENVIRONMENT

We are committed to the protection of the natural environment through an integrated natural resource management system.

Council Goal: Protect and enhance our natural environment for current residents and future generations.

FINANCIAL STABILITY

Residents of Kirkland enjoy high quality services that meet the community's priorities.

Council Goal: Provide a sustainable level of core services that are funded from predictable revenue.

HUMAN SERVICES

Kirkland is a diverse and inclusive community that respects and welcomes everyone and is concerned for the welfare of all.

Council Goal: Support a regional coordinated system of human services designed to meet the basic needs of our community and remove barriers to opportunity.

NEIGHBORHOODS

The residents of Kirkland experience a high quality of life in their neighborhoods.

Council Goal: Achieve active neighborhood participation and a high degree of satisfaction with neighborhood character, services and infrastructure.

HOUSING

The City's housing stock meets the needs of a diverse community by providing a wide range of types, styles, size and affordability

Council Goal: Ensure the construction and preservation of housing stock that meets a diverse range of incomes and needs.

OPERATIONAL VALUES

In addition to the Council Goal statements, there are operational values that guide how the City organization works toward goal achievement:

- **Regional Partnerships** - Kirkland encourages and participates in regional approaches to service delivery to the extent that a regional model produces efficiencies and cost savings, improves customer service and furthers Kirkland's interests beyond our boundaries.
- **Efficiency** - Kirkland is committed to providing public services in the most efficient manner possible and maximizing the public's return on their investment. We believe that a culture of continuous improvement is fundamental to our responsibility as good stewards of public funds.
- **Accountability** - The City of Kirkland is accountable to the community for the achievement of goals. To that end, meaningful performance measures will be developed for each goal area to track our progress toward the stated goals. Performance measures will be both quantitative and qualitative with a focus on outcomes. The City will continue to conduct a statistically valid community survey every two years to gather qualitative data about the resident's level of satisfaction. An annual Performance Measure Report will be prepared for the public to report on our progress.
- **Community** - The City of Kirkland is one community composed of multiple neighborhoods. Achievement of Council goals will be respectful of neighborhood identity while supporting the needs and values of the community as a whole.

The City Council Goals are dynamic. They should be reviewed on an annual basis and updated or amended as needed to reflect resident input as well as changes in the external environment and community demographics.

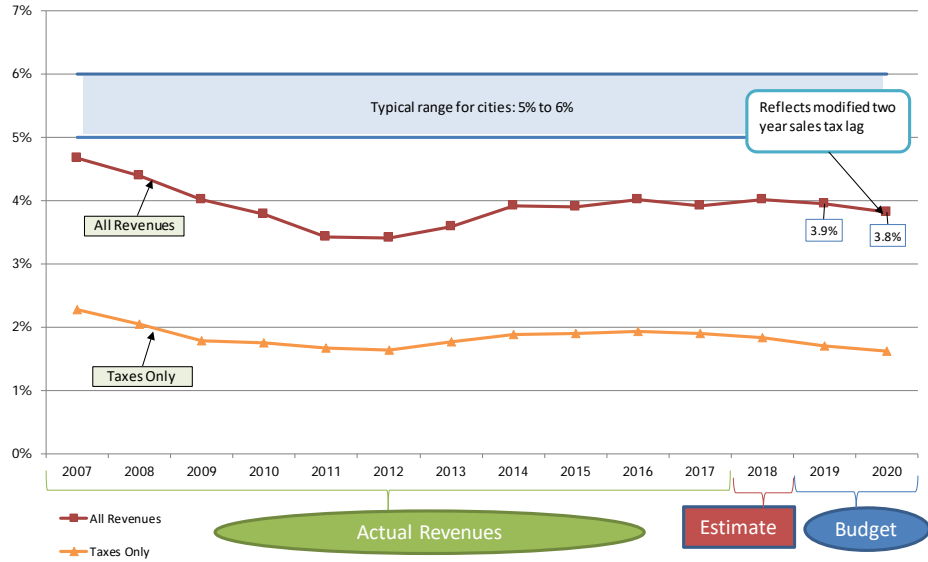
Measuring performance provides a quantifiable way in which to recognize successes and areas needing improvement. The City's progress is measured against data from previous years, targets set in master plans and benchmarks with other communities. By measuring our programs using a variety of data, we can see how Kirkland's present state relates to its past indicators and future plans. Performance measures offer transparency and allows the public to hold the City accountable. The report provides insight into costs, accomplishments, areas of improvement and resident satisfaction as determined by the biennial community survey.

Over the past several years, the City has been guided by three key performance measures that have been accepted by City Council as "strategic anchors" on which to base every major decision. The anchors keep the City grounded and on a path to success by considering whether the City is affordable, responsive to the needs of its residents, and financially sustainable. Visual representations and explanations of each strategic anchor follow:

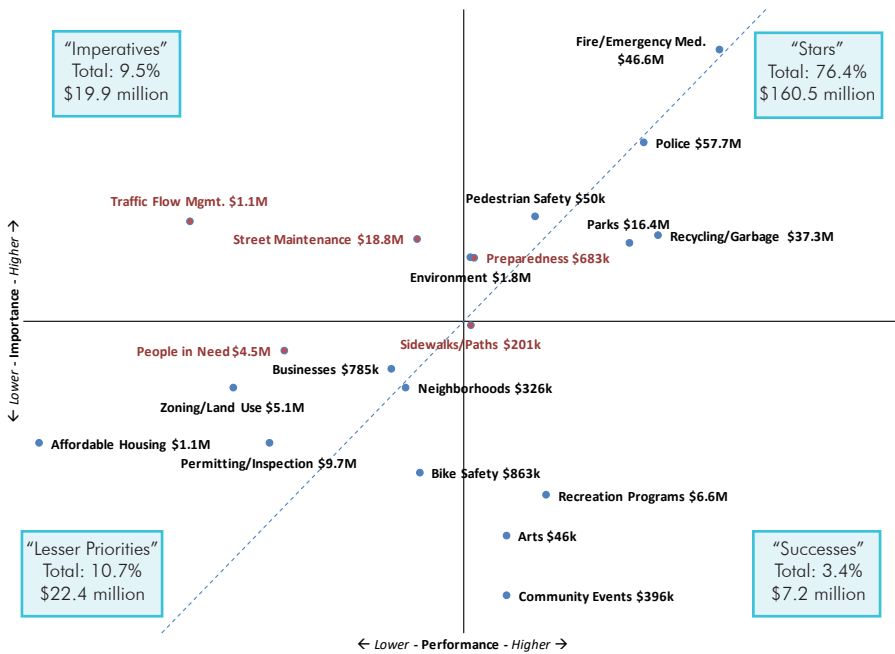
AFFORDABLE

Price of government is the sum of all the taxes, fees and charges collected by the City divided by the aggregated personal income of its constituents. This yields a percentage that represents what residents are willing to pay for government. A typical percentage for a city is 5% to 6%. For the City of Kirkland the actual price of government for the past several years has been in the 3-4% range.

The Price of Government
City of Kirkland, Washington
 (Revenue as a percent of Aggregate Personal Income)



2018 Survey Results with 2019-2020 Adjusted Budget



RESPONSIVE

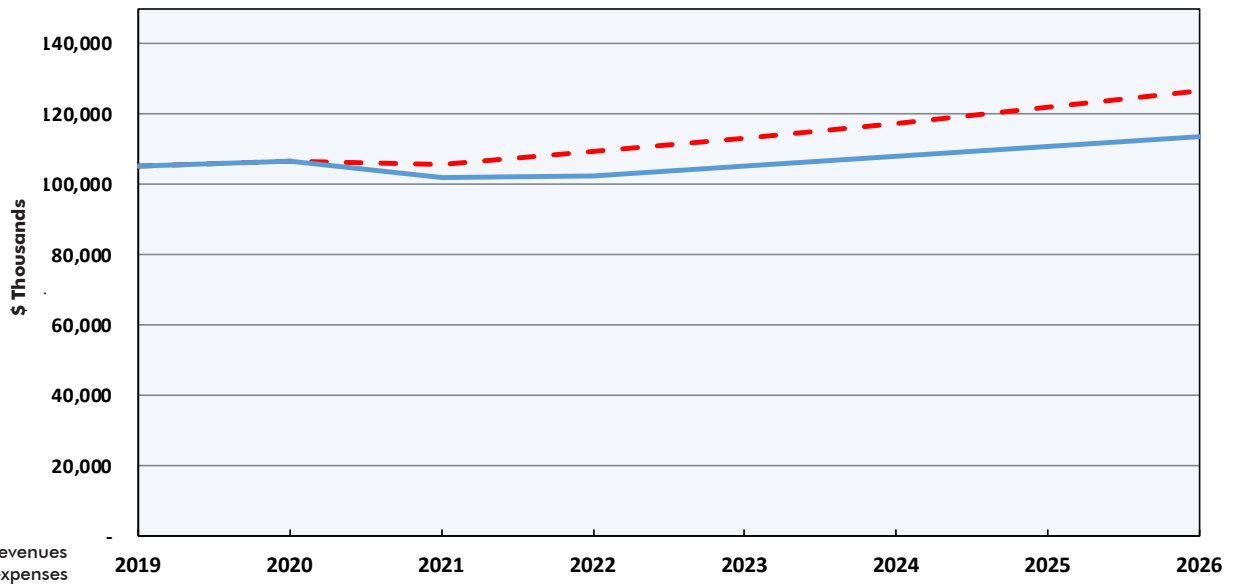
The "Kirkland Quadrant" represents eighteen key policy areas (Priority Areas) and the ranking by community members through a survey of their importance and the City's performance levels, coupled with the level of investment that the City makes in each area. The dashed line represents the theoretical balance of performance in relation to the level of importance that community members place on that service. Items significantly to the left of the line may be potentially valuable improvement opportunities, while items far to the right of the line may provide insight into possible areas of resource reprioritization.

The City uses the Kirkland Quadrant to provide key guidance on the priority areas for investment where opportunities for improvement are identified by the community. In addition, the investment by quadrant is an indicator of how the City is allocating its limited resources to those services, with the majority of investments made in priority areas ranked by the community as being of highest importance. This chart represents the data from the 2018 Community Survey and both the 2017-2018 and 2019-2020 Budget.

2019-2026 GENERAL FUND FORECAST
Based on 2019-20 Ongoing Budget Plus Recurring Policy Items

SUSTAINABLE

Financial stability is creating a balance in the City’s efforts to achieve desired outcomes while keeping expenses in line with revenues. This means not only working to balance today’s budget, but also keeping in view future needs and opportunities as the City strives to be an excellent steward of the public trust.



	2019	2020	2021	2022	2023	2024	2025	2026
Total Expenditures (000's)	105,151	106,621	105,426	109,252	113,248	117,411	121,898	126,694
Total Resources (000's)	105,151	106,621	101,979	102,484	105,376	108,110	110,575	113,419
Net Resources (000's)	-	-	(3,448)	(6,768)	(7,872)	(9,301)	(11,324)	(13,275)
Biennium Total (000's)	-		(10,216)		(17,173)		(24,599)	

The above three strategic anchors – **affordable, responsive, and sustainable** – ground the City’s overall direction, and are used in conjunction with the ten goal areas set forth by the City Council to create a complete performance assessment of how resources have been used in response to community expectations.

Format of Report – Performance measures provide a logical connection between City resources and desirable community outcomes. If the City devotes resources to a service area, then it should be able to achieve desired outcomes in line with the Council goal of that service area. Each service area includes a performance measures chart of City inputs, outputs, and outcomes. Each section provides a description of why the specific measures were chosen, how the City is performing and how the City is working toward achieving desired outcomes. Each section also includes a case study that highlights specific work for that goal. Data comes from budgeted funding in the final budget and Capital Improvement Program documents, department program tracking, master plans and community and business surveys.

Future of the Report – The City of Kirkland is changing and the needs of its residents are changing as well. The goal of the performance report is to show how the City is responding to those needs. This may prompt changes in the scope and scale of performance measures to provide data for decision making at the City and regional level as Kirkland continues to grow as a regional voice. This expansion of impact to the regional level is evident in some of the reports as department leaders strive to find answers to challenges, be good stewards of public funds and provide the best services to the residents of Kirkland.

Public Safety

- The Police Department focused on hiring officers in a challenging environment and implementing a new animal services program.
- The Fire Department continued planning for a new fire station in the north end of the City.

Balanced Transportation

- Sidewalk and curb ramp repairs improved mobility around the City.
- The City worked to balance tree planting and sidewalk maintenance.

Economic Development

- The Village at Totem Lake's lower mall saw Whole Foods, MOD Pizza, Chipotle and other retail outlets open to customers in 2018.
- 'Uptown,' the residential portion of the 1.2 million square foot mixed-use Kirkland Urban project was announced. Uptown's first 185 homes are expected to open in spring of 2019 and an additional 175 apartments are anticipated for 2021.

Parks & Recreation

- Parks and recreation programs continued to draw great registration numbers.
- New asset management program improved efficiency for maintenance and prioritization.

Environment

- Recycling efforts continued to improve as the City made new strides in multi-family programs.
- The City contracted with Puget Sound Energy to have nearly all power provided by wind energy.

Financial Stability

- The City continued reserve funding to offset Annexation Sales Tax Credit ending in 2021.
- Financial planning continued to implement strong financial management strategies and maintain Kirkland's AAA credit rating.

Human Services

- The City partnered with local churches and non-profits to secure a site and funding for a permanent shelter for women and families experiencing homelessness.
- Partnerships between the City and local organizations continued to address needs in our community.

Neighborhoods

- The City continued to work to build community and engage residents.
- The Neighborhood Safety Program continued to give voice to residents for certain capital project priorities.

Housing

- The City made its largest ever contributions to the A Regional Coalition for Housing (ARCH) Trust Fund.
- City staff and the newly-formed Housing Strategy Advisory Group began work on a City-wide Housing Strategy Plan.

Dependable Infrastructure

- City investment in Maintenance Management System improved responses to public.
- Work funded from Streets Levy continued to add life to City streets.

The following is a list of the key strategy documents based on the City's ten goals to protect and enhance Kirkland's quality of life. These documents create a roadmap from community expectations to performance results that ties into future planning, so that the vision we have for tomorrow is being addressed by our actions today.

2018 Guiding Documents

- Comprehensive Plan
- Cross Kirkland Corridor Master Plan
- Neighborhood Safety Program
- Kirkland 2035
- Transportation Master Plan
- Fire Strategic Plan
- Police Strategic Plan
- Urban Forestry Strategic Management Plan
- Housing Strategy Plan
- Capital Improvement Program
- Park Place and Totem Lake Development
- Parks, Recreation and Open Space (PROS) Plan
- Numerous Other Plans and Policies Adopted by the Council.



Neighborhood Safety Program



Transportation Master Plan



Kirkland Urban Development

GOAL

Provide for public safety through a community-based approach that focuses on prevention of problems in a timely manner.

The City provides trained staff and funding

MEASURE	2014	2015	2016	2017	2018	Target
Total Police Services Funding	\$25,608,694	\$25,154,156	\$25,215,927	\$26,089,620	\$26,265,977	N/A
Total Fire and Emergency Management Services Funding	\$19,997,924	\$20,365,020	\$21,338,549	\$22,565,224	\$23,772,231	N/A
Sworn Police FTE's (authorized) per 1,000 population	1.2	1.2	1.2	1.2	1.2	N/A
Paid Fire and EMS staffing per 1,000 population served	1.1	1.1	1.1	1.1	1.1	N/A

So that...

Emergency services provide timely responses

EMS response times under 5 minutes	51%	49%	49%	59%	57%	90%
Fire response times under 5.5 minutes	48%	48%	35%	48%	46%	90%

So that...

Residents are prepared for an emergency and feel safe

Residents have active, working smoke detector in their residence. (a)	97%**	*	95%**	*	98%	100%
Residents have stored seven days of food and water in case of an emergency. (b)	62%**	*	65%**	*	62%	100%
Residents have established a plan to communicate with friends or relatives out of state in the event of an emergency. (c)	**	*	**	*	53%	100%
Residents feel safe walking alone in their neighborhoods after dark	82%	*	82%	*	79%	80%
Residents feel safe walking alone in their neighborhoods during the day	97%	*	97%	*	98%	90%

So that...

All those who live, work and play in Kirkland are safe.

* Community survey occurs in even years
 ** Previous wording of survey question: (a) 'two working smoke detectors in residence' (b) 'prepared for a three day emergency' (c) new question

HOW DO WE MEASURE PUBLIC SAFETY?

Staffing and funding Police and Fire/EMS helps the City to best provide service and timely responses in times of emergency. Measuring the outcomes of response times and rates of fires contained to the area of origin are proxy measures of good performance.

The faster emergency services can reach the site of an emergency, the higher the likelihood of a successful outcome. Factors that affect response times include the distances between station and the incident, geographical barriers, and traffic. Having adequate Police staffing allows for the department to have timely responses to emergencies and non-emergencies alike. Adequate police staffing provides not only a measure of security and safety for the public, but also for the officers themselves.

Measures from the community survey provide standard indicators of how residents feel about public safety and how well they are prepared for emergencies. Having smoke detectors and being prepared for a three-day emergency will help to keep residents safe in the future, while measuring feelings of safety walking in neighborhoods shows how safe the city is now. Residents continue to comment that they are satisfied with the police presence and response times.

HOW ARE WE DOING?

“The mission of the Kirkland Police Department is to protect and serve our community with honor, integrity and courage,” which the department continues to do with a high level of service. Fire and Police respond around the clock with trained, equipped and operationally ready personnel whether a minor injury or a complex, life-threatening event. A minimum of 20 Firefighter/Emergency Medical Technicians are available to respond from five fire stations strategically positioned throughout our community to the wide variety of emergencies that occur in our community. 9-1-1 calls for emergency medical services (EMS) account for over 75% of emergency responses.

Kirkland Firefighter/EMTs manage the treatment and transport of patients with Basic Life Support (BLS) needs. Patients with more severe injuries or illnesses, or those requiring Advance Life Support (ALS) may require the support of paramedics from a neighboring agency, which is provided by formal mutual aid agreements with regional public safety partners.

The rapid growth of the City of Kirkland presents numerous challenges and training opportunities for our departments. Novel building design, along with new construction materials and methods, and increasing population density have required our training staff to expand our training curriculum and delivery methods. Kirkland’s City Council has been enormously supportive of these efforts by approving funding for initiatives that support the department’s evolving training needs. We continue to work with our regional partners to fully implement a sophisticated learning management system that will improve the quality of online training and documentation.

WHAT ARE WE DOING?

The Kirkland Police Department is always looking for ways to provide efficient and effective service to the residents. To further this, the City implemented the Police Strategic Plan, which was developed in tandem with our community stakeholders in 2017. It prioritizes community-based policing utilizing high visibility strategies to reduce crime and maintain a high level of confidence in public safety including a strong emphasis on community engagement. It also detailed a work plan and timeline for system and process improvements to include a more proactive patrol model.

In the November 2018 general election, Kirkland voters passed the Enhanced Police Services and Community Safety Ballot Measure (Proposition 1). This enabled the City to implement a 0.1 percent sale tax increase which funds the hiring of nine officers, including school and neighborhood resource officers, a five member ProAct Unit, homelessness services, behavioral health, gun safety, and education programs. For additional information about the City’s ongoing implementation efforts https://www.kirklandwa.gov/Residents/Public_Safety.htm

The Fire Department is a highly trained and well-equipped organization, with the protection of resident’s lives, property and the environment as its focus. Emergency response,

fire prevention, emergency management, fire code and policy implementation and education are all supported by extensive training to protect Kirkland’s residents, visitors, and businesses.

Looking forward in emergency management, staff also train and coordinate several community volunteer programs, including the Community Emergency Response Team (CERT), Map Your Neighborhood (MYN), and the Kirkland Emergency Communications Team (KECT). To maintain the current standard of service in the future, a Fire Strategic Plan was completed in 2018 to recommend necessary updates and expansion which includes:

- Site acquisition and preliminary planning for the new Station 24, with construction scheduled to begin in 2020
- Identification of a potential location for a new Station 27 located on NE 132nd Street east of Interstate 405 and just north of Evergreen Hospital.
- Completion of renovations at Station 25 on Finn Hill.
- The department’s Office of Emergency Management (OEM) continued to focus on providing training and support to City of Kirkland staff and volunteers.
- Fire Prevention personnel implemented a new software system to support field inspections.



2018 was the first year of the Kirkland Police Department Animal Services Program. Previously these services were provided by Regional Animal Services of King County (RASCK). The new local service is funded using funds collected from animal services through pet licensing and included a new dedicated Animal Control Officer (ACO) to provide a greater level of local awareness and community awareness. The Department was confident that the service provided would continue to be more immediate and full service.

Animal Control Officer Jenifer Matison was hired to build the program that began on January 1, 2018. Like many local Animal Control programs, the Animal Control Officer is part of the Kirkland Police Department. In her first full year of the program, there has been a significant decrease in sheltering costs. ACO Matison has responded to 828 Animal calls for service, reunited 49 pets with their owners and attended 58 community events and meetings in order to provide education about pet licensing and domestic animal concerns.

GOAL

Reduce reliance on single occupancy vehicles and improve connectivity and multi-modal mobility in Kirkland in ways that maintain and enhance travel times, safety and transportation choices.

The City funds active transportation options

MEASURE	2014	2015	2016	2017	2018	Target
<i>Percent of Capital Improvement Program Transportation funding devoted to Active Transportation</i>	36%	41%	32%	31%	30%	33%

So that...

The City can implement the adopted Active Transportation and Intelligent Transportation System Plans

<i>Percent of proposed Intelligent Transportation System (ITS) projects completed</i>	38%	62%	63%	94%	99%	100% of 2009 ITS Strategic Plan
<i>Percent of 2002 school walk route project list completed</i>	89%	89%	90%	90%*	90%*	100% of 2002 School Walk Route List by 2019
<i>Percent of bicycle network construction improvement projects completed</i>	64%	71%	71%	79%	79%	100% by 2019
<i>Percentage of designated arterials that are complete streets</i>	60%	60%	62%	62%	62%	100%

So that...

Kirkland has an integrated multi-modal system of transportation that provides mobility and safe travel

<i>Residents surveyed are satisfied with maintenance of active transportation facilities</i>	82%	**	no data	**	81%	90%
<i>Automobile crashes involving bikes</i>	14	24	16	18	31	0
<i>Automobile crashes involving pedestrians</i>	27	28	24	20	28	0

* On target to reach 100% for 2019 goal.

** Community Survey conducted in even years.

HOW DO WE MEASURE BALANCED TRANSPORTATION?

On November 17, 2015 City Council adopted the City of Kirkland Transportation Master Plan. The Transportation Master Plan established goals, policies, and actions for how the City will expand and maintain a multi-modal transportation system in support of the Comprehensive Plan vision of a livable, walkable, green and connected community. One of the eight goals in the Transportation Master Plan is to “[m]easure and report on progress toward achieving goals and completing actions.” The plan provides policy support to implement a multi-modal, plan-based concurrency system, establishes acceptable levels of service for all modes, adopts a modal split goal for the Totem Lake Urban Center, and ensures Transportation Master Plan implementation by monitoring progress on goals.

HOW ARE WE DOING?

The City began several ambitious active transportation (bicycle and pedestrian) projects in 2014 which have now entered the construction phase. The City is working diligently to meet the construction targets set for these projects. We are continuing to coordinate with our regional partners, work with the community to mitigate project impacts, and pursue funding to better meet our targets.

We are continuing to work on projects that incorporate safety features that are designed to reduce the incidence of automobile collisions involving bikes and pedestrians. The level of collisions fluctuates from year to year, and staff will analyze all information available to see what can be done to reduce their frequency. Staff is confident that as the City continues to move forward on several initiatives, including the Vision Zero, Safer Routes to School Program, Neighborhood Safety Program, Neighborhood Traffic Control Program, and the Streetlight Program, the City's transportation system will become safer for users of all modes of transportation.



Community Connections

Community Connections is a King County Metro program that works with local governments and community partners to develop an array of innovative and cost-effective transportation solutions in areas of King County that do not have the infrastructure, density, or land use to support a regular, fixed-route bus service. The Juanita and Finn Hill neighborhoods of Kirkland were selected to implement the following programs: TripPool, SchoolPool, and Community Van. TripPool offers on-demand ridesharing between residences and transit centers. SchoolPool partners with schools, PTAs, parents, and students to encourage alternative ways to get to and from school other than driving. Community Van utilizes King County Metro vans for local group trips designed to provide residents with customized rideshare options. Volunteer drivers offer shared rides to popular destinations and events.

WHAT ARE WE DOING?

The City of Kirkland staff first discussed the idea of “advanced mitigation” with the City Council in late 2016 during the review and adoption of Chapter 90 of the Zoning Code, “Critical Areas”. Advanced Mitigation means combining environmental mitigation requirements into a larger project at specific sites in the City that would provide a greater environmental benefit in a more cost-effective manner. Staff returned to Council in 2018 on three occasions discussing 1) framework and criteria of such a program, 2) scope and budget request, and 3) a responsive bid to construct the City's first advanced mitigation project: Advanced Mitigation at Forbes Creek Drive. Construction began in late 2018 restoring more than five acres of wetlands near Fire Station 21 – on the northeast side of Market Street's intersection with Forbes Creek Drive. The City's contractor removed invasive Himalayan Blackberry and reed canary grass monocultures that consumed the area, and hand-planting hundreds of native plants.

This advanced mitigation project compensates wetlands and stream buffers for the unavoidable effects capital construction – such as sidewalks and parking lots – can have on these sensitive areas. The result of a fully-implemented Advanced Mitigation Program will be improved ecological outcomes at a lower price and within a shorter timeframe than could be provided by a site-by-site mitigation process. This is a win-win for both use of public funds and for the environmental protection.



Forbes Creek Advanced Mitigation Site.

GOAL

Attract, retain and grow a diverse and stable economic base that supports city revenues, needed goods and services and jobs for residents.

The City provides a welcoming, supportive environment for businesses

MEASURE	2014	2015	2016	2017	2018	Target
Number of businesses helped with consultant services	178	174	189	181	185	N/A

So that...

Kirkland has a healthy business and tourism economy

Office space vacancy rate	5.5%	3.3%	5.1%	4.7%	4.7%	Eastside: 9.0%
Lodging tax revenue	\$270,607	\$305,564	\$312,521	\$326,919	\$329,043	Increase
Net new businesses	***	***	873	841	706	Increase
Visits to ExploreKirkland.com	86,017	111,866	83,954	60,896	53,808	Increase
New Green Businesses	3	***	***	7*	12	Increase
Annual number of jobs	33,828	34,803	37,342	39,281	41,934	Increase

So that...

Kirkland has a diverse, business-friendly economy that supports the community's needs

Businesses are satisfied with Kirkland as a place to do business	***	81%	***	***	***	80%
Residents are satisfied with the availability of goods and services in Kirkland	80%	**	83%	**	90%	80%

* Envirostars program launched in Sept 2017

** Community Survey conducted in even years

*** No data available

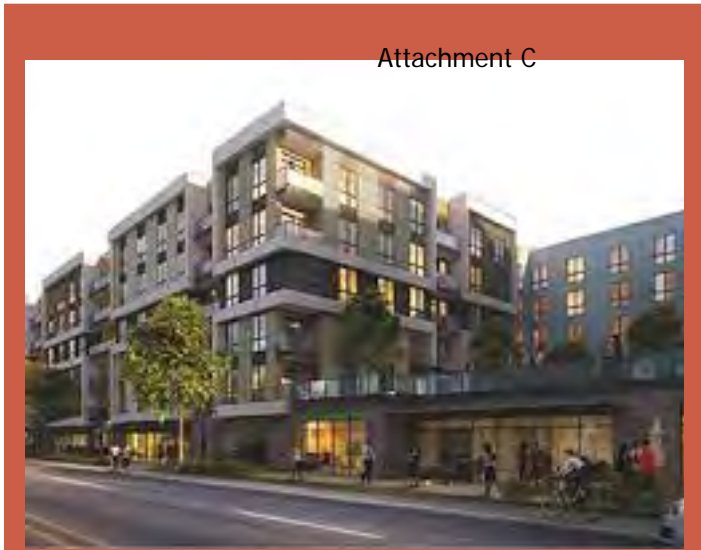
HOW DO WE MEASURE ECONOMIC DEVELOPMENT?

Net new businesses and office space vacancy rates show the growth and health of the local business economy. Lodging tax revenue measures the vitality of the hospitality industry, which in turn supports other tourism assets such as cultural arts and events, restaurants and retail shops. This can also be measured with the number of internet visits to the ExploreKirkland.com website, which often translates to actual visits and extended stays in our City. Survey results and annual number of jobs help to demonstrate the ongoing economic stability and opportunities for residents.

HOW ARE WE DOING?

The Economic Development Program continues to recruit and retain businesses. While the data show a downward trend, this reflects the contraction of businesses resulting from the construction development at both The Village at Totem Lake and Kirkland Urban. We expect the new businesses indicator to pick back up with the completion of these exciting developments.

The commercial vacancy rate in Kirkland is substantially lower than the King County average. Carillon Point and Yarrow Bay, the City's largest office parks are approaching capacity. The first phase of The Village at Totem Lake came on line. Kirkland Urban will increase the amount of Class-A office space in Kirkland's existing portfolio by 65 percent, potentially giving the city an edge when it comes to landing and retaining companies.



Attachment C

Totem Lake Project

WHAT ARE WE DOING?

Kirkland Urban, an 11.5-acre, 1.2 million square foot mixed-use, multi-phase development started to come to life and began to spark the imagination of the community. The completed project will include 650,000 square feet of Class-A office space (future tenants include Tableau and Wave, and the office towers could serve as many as 5,000 employees), 225,000 of commercial space (future tenants include QFC, Bright Horizons, and HomeStreet Bank, as well as restaurants, a movie theater, and a health club), 300,000 square feet of residential space (room for 380 one-bedroom, two-bedroom, and townhouse rental units), and enough parking for 1,700 vehicles.

Building a great community includes making a city with all the amenities that attract people and businesses. Kirkland Urban, located on the eastern border of the civic campus that

includes the Kirkland Library, Peter Kirk Park, the Community Center, Teen Union, and the Kirkland Performance Center is a conscientious economic development strategy with a livable community and common sense behind the plan. Kirkland Urban's businesses and housing will continue to open and compliment the thriving downtown core, award-winning Park Lane and historic waterfront.

Recognizing the downward trend in visits to ExploreKirkland.com, the Tourism Development Committee (TDC) recommended investment of lodging tax reserves toward redesigning the decade old site to provide a simple, effective user experience and optimize the site to be responsive across all devices. Council approved the TDC's recommendation in the City's 2019-20 budget.



Kirkland Urban Development

GOAL

Provide and maintain natural areas and recreational facilities and opportunities that enhance the health and well-being of the community.

Staff and volunteers maintain parks and manage recreation programs

So that...

The City invests in parks and recreational programs

So that...

The City progresses on the Park, Recreation and Open Space Plan

So that...

Kirkland has an exceptional parks and recreation system

MEASURE	2014	2015	2016	2017	2018	Target
<i>FTE staff for parks maintenance and recreation programs</i>	59.69	59.76	60.15	60.58	63.73	N/A
<i>Park maintenance FTE's per 100 acres developed land</i>	5.44	5.48	5.48	5.24	5.15	N/A
<i>Number of volunteers</i>	3,012	3,216	3,196	4,960	4,354	N/A
<i>Volunteer hours</i>	19,266	19,431	20,417	21,044	17,922	N/A
<i>Parks Capital Improvement Program</i>	\$3,823,583	\$3,552,615	\$3,677,400	\$2,193,000	\$3,961,000	N/A
<i>Parks Operating & Maintenance Funding</i>	\$5,097,601	\$5,900,339	\$5,951,738	\$5,853,592	\$5,863,484	N/A
<i>Recreation Operating & Maintenance Funding</i>	\$2,198,858	\$2,326,789	\$2,444,766	\$2,766,891	\$2,807,888	N/A
<i>Residents with neighborhood park within 1/4 mile radius</i>	68%	68%	68%	74%	75%	100%
<i>Acres of natural area in restoration</i>	58.6	64.5	80	95.7	107.7	487 acres by 2035
<i>Percent of recreation classes meeting minimum enrollment</i>	85.4%	87.3%	82%	87%	82.6%	80%
<i>Residents rate City parks as satisfactory or better</i>	95%	*	94%	*	97%	95%
<i>Residents rate recreation and community services as satisfactory or better</i>	84%	*	79%	*	84%	N/A

* Community Survey occurs in even years

HOW DO WE MEASURE PARKS AND RECREATION SERVICES?

The Park, Recreation and Open Space (PROS) Plan sets targets that provide benchmarks by which to measure the development and maintenance of Kirkland's parks and natural spaces, including:

- Residents should have access to a neighborhood park within a quarter-mile of their home.
- 487 acres of natural areas are targeted to be restored to their natural state by 2035.

The budget and number of FTE staff available to parks maintenance and operations help measure the Department's ability to maintain the parks. With the infusion of levy funds, park maintenance staffing was nearly returned to 2010 levels.

Given the important contribution that volunteers make to the City, the number of volunteers and their total number of hours are also tracked. Volunteer Opportunities include recreation programs and parks maintenance. The Green Kirkland Partnership carries out environmental restoration in parks almost exclusively through volunteers.

Recreation and community services programs and classes are measured by tracking the percentage of programs and classes that meet minimum numbers to operate. This demonstrates how well they match residents' preferences. Over 82% of recreation classes met the minimum enrollment, which exceeds the City's target, a good indication that the classes offered met the demands of residents.

Resident satisfaction with the parks, recreation and community services, as determined by the biennial Community Survey, provides another measure of how well the park and recreation system meets the community's needs.

HOW ARE WE DOING?

Parks and Community Services has changed a great deal over the years. With the annexation in 2011, the department has increased its scope and responsibility. This includes an increase in park acreage from 490 acres to 619 city-owned acres and another 80 acres that are not City-owned but available for community use. New acres have been added to the restoration program, growing it from 30 acres in 2011 to 108 acres in 2018. The Department currently encompasses parks maintenance and operations, Green Kirkland Partnership, community centers, Peter Kirk Pool, recreation and community services programming, special event support services, youth services, senior services and human services.

The Parks and Community Services Department has made considerable strides to keep pace with the community growth in order to meet the health, wellness and recreation needs of the community. New technology is paving the way to automate how services are delivered to the community. Capital improvement projects in development for years have finally been completed or are in construction. Customer service processes are being streamlined to better serve the community and the department is striving to allocate its resources to the community's top priorities.

WHAT ARE WE DOING?

In 2018, the recreation and community services staff offered 2,107 unique programs and had 18,582 customers registered for those programs, with another 4,892 people on waitlists. 82 percent of recreation classes met the minimum enrollment, which exceeds the City's target, a good indication that the classes offered met the demands of residents.

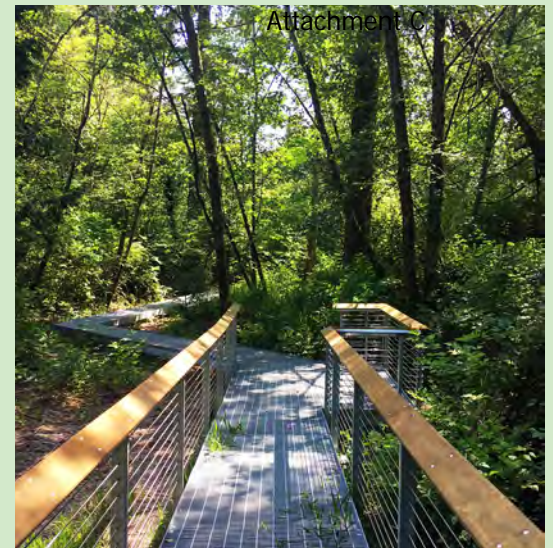
The Human Services program granted \$901,863 to 40 organizations offering 65 different programs.

The priority focus is programs that

provide food to eat and a roof overhead; supportive relationships within families, neighborhoods and communities; a safe haven from all forms of violence and abuse; health care to be as physically and mentally fit as possible; and education and job skills to lead an independent life.

Finally, the capital improvement program grew from \$888,000 in 2011 to \$3,235,000 in 2018. The City is growing and we are growing with it!

During the City's 2018 Cost Recovery Study, the City Council gave direction to enhance and grow the scholarship program supporting Kirkland residents' ability to participate in recreation, health and wellness programming. It is the philosophy of the City/Department that cost should not be a significant barrier to Kirkland residents for participation in City Parks and Community Services programs. Staff formalized the scholarship program, which now includes 50%, 75% and 95% scholarships. Support of the scholarship program comes from donations from community members and local organizations. You can contribute to this program online by going to www.kirklandparks.net



Trail walk at Edith Moulton Park.

Ongoing Improvements to Serve the Community

In 2011 Edith Moulton Park was annexed to the City of Kirkland and in April 2015, a master plan for Edith Moulton Park was adopted by City Council. The Phase 1 renovation was funded by the voter-approved 2012 Parks Levy and includes improved gravel paths and the addition of boardwalks, a picnic pavilion, a play structure and a restroom building. It also includes a fenced off-leash dog trail as well as accessible parking stalls. Along the park's western border with 108th Avenue Northeast, the City replaced the existing sidewalk with one that is accessible to those traveling by wheelchair or with visual assistance. The new sidewalk brings some of the designated parallel parking spots into compliance with the Americans with Disabilities Act. The project also resulted in a new bicycle lane.

RECREATION SCHOLARSHIP PROGRAM

Scholarships are available for Kirkland Residents of all ages and abilities who might not be able to participate due to income.

- **NEW:** 50%, 75%, and 95% scholarships are available (depending on income verification).
- Donations from community members are now being accepted!
- Donations support the Scholarship Program and will allow all Kirkland Residents to participate in department-offered programs.



Please visit kirklandparks.net and click on "Recreation Scholarships" for information about the program or to donate today!

GOAL

Protect and enhance our natural environment for current residents and future generations.

The City implements comprehensive natural resource management system

So that...

Kirkland protects and enhances its natural environment

So that...

Current and future residents of Kirkland enjoy a healthy natural environment and resources

MEASURE	2014	2015	2016	2017	2018	Target
<i>Compliance with NPDES Stormwater Permits</i>	100%	100%	100%	100%	100%	100%
<i>Residential Recycling Diversion Rate</i>	53.7%	54.5%	53.9%	54.8%	58.9%	Increase
<i>City building electricity use (kilowatt/hour)</i>	2,491,759	3,696,204*	3,532,456	3,664,878**	3,504,970	Decrease
<i>City building natural gas usage (therm)</i>	103,196	91,946*	95,927	111,938***	100,835	Decrease
<i>Waste entering landfill from residences (tons)</i>	21,840	21,742	21,869	20,980	18,535	Annual 2.5% decrease
<i>Annual reduction in City's greenhouse gas emissions as a percent of 2005 levels</i>	14%	16%	-2.98%	.39%	11.73%	80 % below 2005 levels by 2050

*First full year of facility operations for the Kirkland Justice Center.

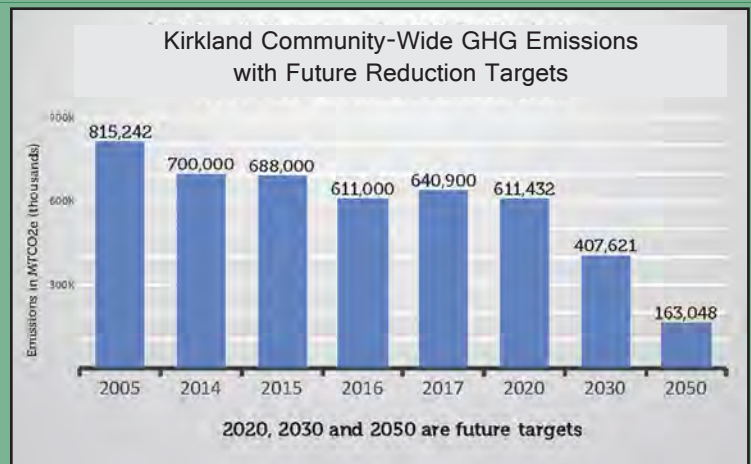
** 2015 – 2017 electricity fluctuations are due in part to City Hall remodel construction.

*** Puget Sound Energy notes that 2017 was much colder than 2016 and customers saw higher usage as a result.

HOW ARE WE DOING?

The City calculated its first ever community greenhouse gas emissions report for the year ending 2017 which was published in spring of 2018. A major highlight from the report is that overall the city-wide greenhouse gas (GHG) emissions have declined from 2005 when they were calculated at 815,242 metric tons of carbon dioxide equivalent (MTCO₂e). In fact, for the year ending 2017 the total GHG emissions were calculated at 640,900 MTCO₂e, which is a reduction of 21.4% from the 2005 base year. This reduction occurred in spite of the annexation that took place in 2011, which added 31,000 people to the City's population!

The City has been collaborating with the King County Cities Climate Collaborative (K4C) since 2014, to reduce GHG emissions from the production of electricity, vehicle miles travelled, combustion of natural gas; and to help strengthen building and energy codes in Washington State. Usually these types of activities are outside of the



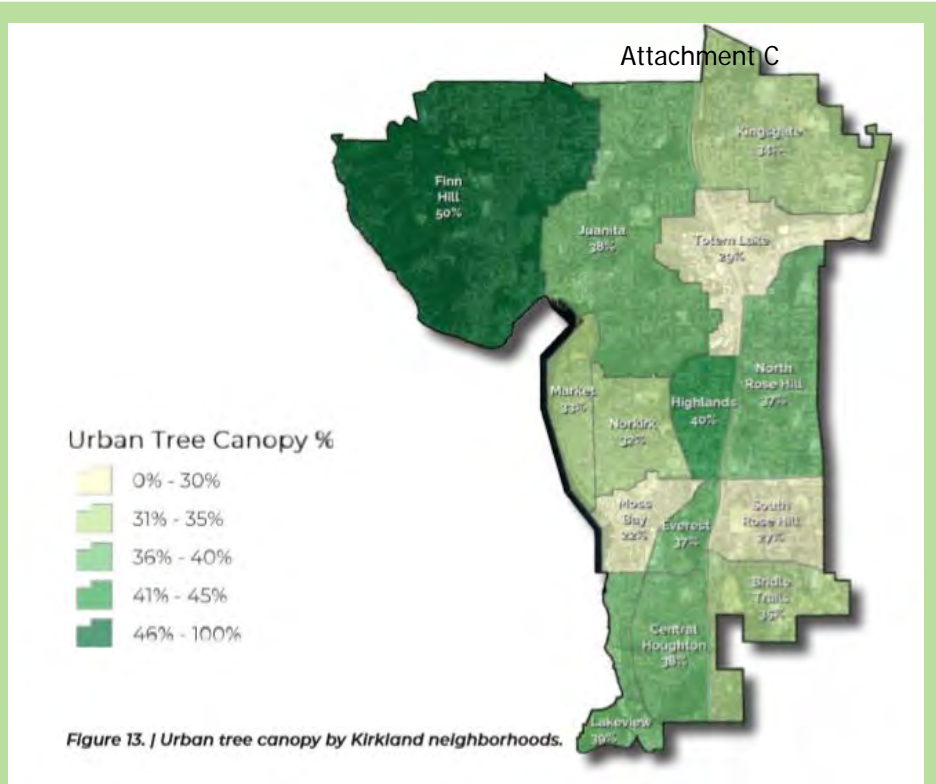
City's direct influence and control. However, working regionally with the K4C has demonstrated an increase in the production of clean renewable electricity, can reduce the carbon intensity of gasoline in Washington State, and potentially lead to more energy efficient structures. The outcomes of these shared actions can substantially reduce overall GHG emissions in the near and long term for not only Kirkland, but well beyond our borders.

HOW DO WE MEASURE ENVIRONMENTAL SUSTAINABILITY?

The National Pollutant Discharge Elimination System (NPDES) stormwater permits encompasses a wide range of actions that the City takes to improve surface water quality.

Recycling diversion rates and waste entering the landfill both measure the effect of the City's waste reduction efforts.

The annual reduction in greenhouse gas emissions sets 2005 as a baseline level to be improved upon. The target plan is to have 25% reduction from that baseline by 2020, 50% reduction by 2030, and 80% reduction by 2050.



WHAT ARE WE DOING?

The City continues to work on reducing waste, recycling and composting more and encouraging residents and businesses to do so as well. This is done through a variety of programs and outreach including its green business program EnviroStars, a regional green business one-stop-shop for Kirkland, Seattle, Bellevue, Redmond and others to help take environmental actions and get recognized for work they are already doing. Collaborations such as this make it easier for customers and the city to identify and support green business practices. In 2018, Kirkland continued significant work on multifamily recycling efforts. We offered specialized assistance to 35 properties and distributed around 1000 recycling bags and education to individual units. This outreach increased recycling capacity on site, educated residents about sorting, and increased food waste composting. These efforts have improved the multifamily diversion rate.

The City of Kirkland Solid Waste and Recycling staff continued work on other waste reduction and recycling projects. Kirkland declared April 2018 Earth Month, and celebrated with a variety of events and educational opportunities for the community. We held the first of its kind latex paint recycling event and collected almost 26,000 pounds of paint and containers for recycling. This was made into approximately 1,945 gallons of new recycled content paint.

The City is part of a voluntary, long-term agreement with Puget Sound Energy (PSE) to provide nearly all the City's electricity use through PSE's Green Direct program, which allows participants to directly invest in a specific renewable energy project while also locking into a stable and predictable price for electricity for ten years. This action will help remove the City's electricity costs from a sometimes-volatile and unpredictable energy market. PSE estimates that the City's use of Green Direct power will provide a reduction of 3,250,000 pounds of CO₂.

Urban Forests

Kirkland tracks changes in urban tree canopy cover (UTC), which is the outline of leaf surface seen in aerial imagery. It is one indicator of urban forest health and when compared to other land cover, helps to establish policies and codes based on the community's vision for the environment. Canopy cover is tracked over 7 or 8-year cycles; in 2002, UTC was 32%, in 2010 41%, and in 2017, down to 38%. In response to this downturn, the City is updating the tree code, Kirkland Zoning Code Chapter 95 to help retain existing canopy cover. Canopy expansion efforts can also be achieved through tree planting, greater levels of public education and meeting the objectives of the Urban Forest Strategic Management Plan.

GOAL

Provide a sustainable level of core services that are funded from predictable revenue.

The City is fiscally responsible

So that...

The City can invest in community priorities

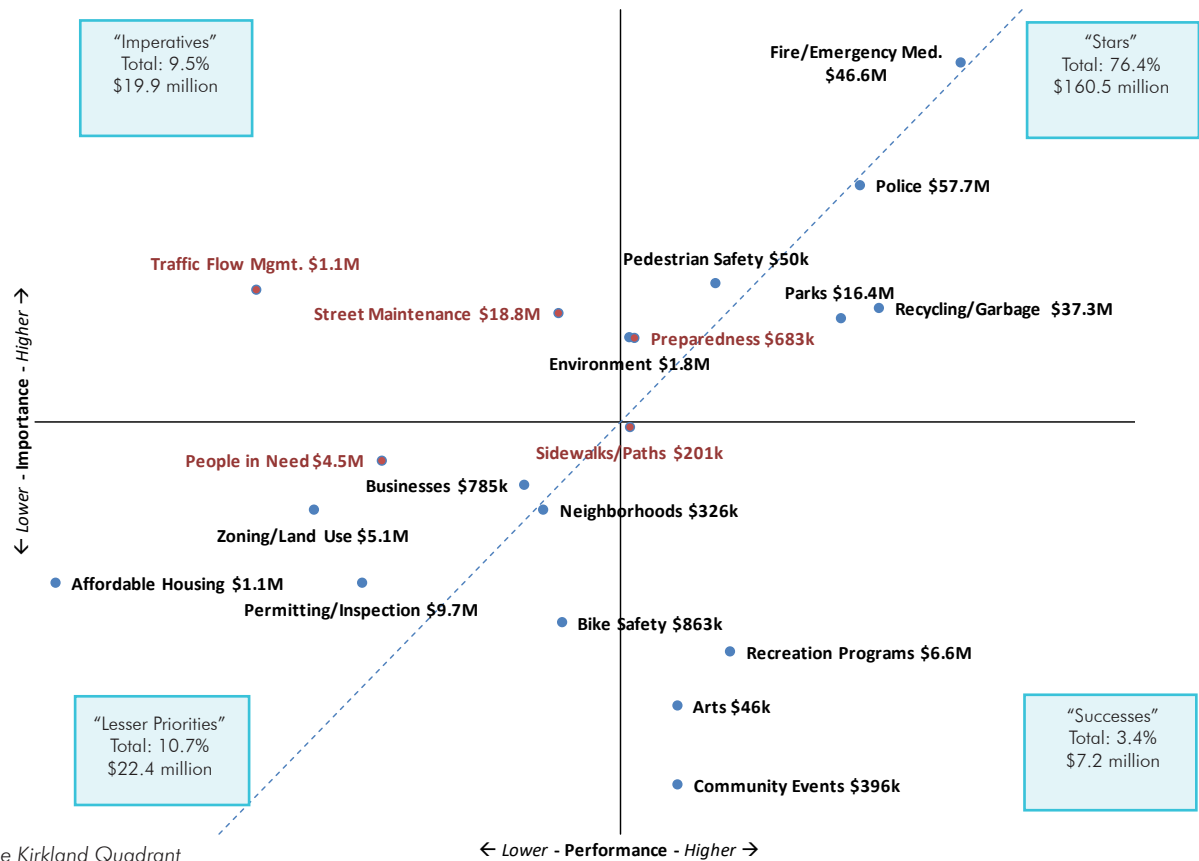
So that...

The residents of Kirkland enjoy high quality services that meet the community's priorities

MEASURE	2014	2015	2016	2017	2018	Target
Percent of target balance in General Purpose Reserves	78%	89%	88%	88%	95.2%	80% of budgeted reserve target
Credit Rating	AAA	AAA	AAA	AAA	AAA	AAA
Percent of funding allocated to high priority services (Stars and Imperatives)	94.3%	*	92.3%	*	85.8%	80% of rated services

* Community Survey conducted in even years

2018 Survey Results with 2019-2020 Adjusted Budget



HOW DO WE MEASURE FINANCIAL STABILITY?

Financial stability of a municipality is determined by measuring the ability of the municipality to meet its short-term and long-term financial obligations in conjunction with meeting the needs its community while considering its ability to withstand unforeseen disruptions. Perhaps the mostly commonly used ways to account for this are to look at a municipality's credit rating and fund balance status.



HOW ARE WE DOING?

Contingency reserves are typically used during economic downturns but can also be used on a short-term basis to mitigate large, unforeseen expenditures or revenue reductions. The last time these reserves were used was during the 2008-2011 recession. The Council began replenishing reserves following the recession and has continued to increase reserves levels, with reserves projected to reach the Council designated target, 80% of the statutory maximum of \$0.375 per \$1,000 of assessed valuation, at the end of 2020.

For at least the last ten years, including during the recession, Kirkland has received a AAA rating from Standard and Poor's, which is the highest rating available. This saves Kirkland taxpayers money through lower interest rates when borrowing.

The rating reflects factors including financial strength and use of financial best practices.

In concert with using best budgeting practices, the City has continued to invest in areas that the community has highlighted as a priority. Further the City has made long-term decisions, such as the voter-enacted 2012 Streets and Parks Levy and the 2018 Enhanced Police Services and Community Safety sales tax initiative, to facilitate greater spending on areas the community has highlighted as important.

Balancing affordability, sustainability, and responsiveness to community needs means that the City is able to ensure improvements are made in a fiscally sustainable manner, while sufficiently prioritizing areas residents are most concerned about.

Annexation Sales Tax Credit Reserve

During the 2017-2018 budget development process, the City Council established an Annexation Sales Tax Credit (ASTC) reserve as part of the City's commitment to financial stability and ensuring adequate levels of reserves. Ongoing contributions are scheduled for 2018.

Currently budgeted at approximately four million dollars per year the ASTC represents money received from the State of Washington to help the City with the additional costs associated with running a larger City. The ASTC lasts for ten years, and is set to expire mid-way through 2021. Building reserves is one of a number of proactive steps the City is taking to help offset the loss of this revenue source.

WHAT ARE WE DOING?

Financial stability is essential to the City of Kirkland. The City prioritizes maintaining a stable financial base from which to fund core services, and ensures all major decisions are affordable. Kirkland establishes strong financial management policies by:

- Realistically estimating revenues and expenditures.
- Consistently monitoring and amending the budget based on actual performance.
- Creating a long-term financial plan.
- Ensuring long-term capital improvement funding.
- Managing investments and debt.
- Maintaining reserves to offset economic downturns.

The City's biennial budget is an essential planning document and provides strategic insight into current spending allocations and future spending priorities. The City continues to further integrate the budget with the overall performance management framework to ensure that the spending decisions are responsive to resident needs and council priorities, as well as sustainable and affordable.

GOAL

Support a coordinated regional system of human services designed to meet the basic needs of our community and remove barriers to opportunity.

	MEASURE	2014	2015	2016	2017	2018	Target
City funds human service agencies	Total human services funding	\$2,786,692	\$2,921,624*	\$2,845,815	\$3,286,529	\$3,635,591	N/A
	Human services funding per capita	\$34.13	\$35.01	\$33.99	\$37.67	\$41.67	N/A
So that... The City supports programs that help people meet basic needs	Number of programs funded* in each community goal area: 1. Food to Eat and Roof Overhead	21	23	23	21	21	N/A
	2. Supportive Relationships within Families, Neighborhoods and Communities	13	15	15	13	13	N/A
	3. Safe Haven from All Forms of Violence and Abuse	4	5	5	6	6	N/A
	4. Health Care to Be as Physically and Mentally Fit as Possible	15	16	16	16	16	N/A
	5. Education and Job Skills to Lead an Independent Life	9	8	8	9	9	N/A
So that... Kirkland meets the needs of our community	Funded agencies meet or exceed human services contract goals	94%	94%	94%	95%	93%	100%
	Percent of applicant programs receiving funding from the City	84%	88%	88%	81%	81%	100% of eligible programs

HOW DO WE MEASURE HUMAN SERVICES?

The City contracts with a range of non-profit agencies that leverage multiple funding sources including other public funding, private foundations, and individual donations. The City uses measures such as funding level, and funding per capita to help measure our commitment to the non-profit agencies supported by the City.

The non-profit agencies have service delivery goals and outcome expectations that they are required to track and report to the City on a quarterly and annual basis.

REGIONAL PARTNERSHIPS

The human service agencies that the City supports are part of a regional delivery system that addresses the needs of residents throughout the Eastside. The City of Kirkland partners with other suburban cities in a pooled funding program that streamlines the application and reporting process for each program.

The Human Services Division staff represents Kirkland on a number of regional collaborative efforts:

- Eastside Easy Rider Collaborative
- Eastside Homelessness Advisory Committee (EHAC)
- Eastside Human Services Forum
- King County Community Development Block Grant Consortium
- North/East King County Funders Group
- United Way's Community Building Community

HOW ARE WE DOING?

Demand for human services in Kirkland remains high. Programs are supported by grant funding to deliver numerous essential services to provide a safety net for Kirkland residents. Contracted agencies provide services including shelter, food, clothing, counseling, medical care, employment assistance, mentoring, training and other services to City residents. In addition, programs often utilize the time and talents of community volunteers to help bridge the gap. The City's investment in human services has continued to increase. The number of funded programs has grown from seven in 1987 to 65 in the 2017-2018 biennium. The amount of funding for grants has also increased to over \$1.8 million.

The percentage of funded agencies reaching or exceeding their targets remained high at 93%. The City will continue to work with funded agencies to ensure this number gets to the target of 100%. The agencies that were not able to meet their goals did so in part because of lost funding and their challenges attracting and retaining employees. Nonprofit agencies are mostly unable to compete with the wages offered by other sectors in the community.



Peter Kirk Community Center

WHAT ARE WE DOING?

In addition to supporting local human service agencies, the City supports its residents through a number of efforts including:

- Contributing money to A Regional Coalition for Housing (ARCH)
- Providing officers for the LWSO School Resource Officer program
- Offering extensive senior programming
- Supporting the Kirkland teen center
- Staffing a youth council and a senior council
- Publishing A Resource Guide for Older Adults and Their Families in partnership with EvergreenHealth
- Assisting Domestic Violence Survivors
- Running a teen traffic court program



A Kirkland Funded Agency Spotlight

Eastside Legal Assistance Program

The Eastside Legal Assistance Program (ELAP) provides free civil legal aid to low-income residents of Eastside and Northeast King County and domestic violence legal aid throughout King County. Pro bono attorneys host clinics that assist with matters related to general law, family law, domestic violence, immigration and bankruptcy.

When you don't have a lot of money but do need a lawyer, the free clinics that ELAP provides are a vital community resource. That was 'Peter's' experience when he sought help with a guardianship issue at an ELAP Family Law Clinic. Peter's elderly mother had legal responsibility for his brother. Peter feared his mother wouldn't be able to take care of his brother, who has Down Syndrome, and wanted guardianship transferred to him. The ELAP attorney he met with found the forms Peter would need to start the transfer process and later emailed additional details and an instruction sheet for filling out the paperwork.

Its Immigration Law Clinics have also been greatly beneficial to residents. 'Vivian' for example was panicking and didn't know where to turn. A lawful permanent resident of the U.S. since she was eight years old, Vivian's passport expired, and she was struggling to come up with the money to apply for citizenship. She heard about ELAP's free legal services and made an appointment at one of its Immigration Law Clinics. The ELAP attorney she met with explained how she could get an N-400 application that enables lawful permanent residents to become U.S. citizens through the naturalization process. Today many low-income residents of our area, like Vivian, have immigration concerns and are relieved to learn they can get expert assistance from ELAP attorneys.

GOAL

Achieve active neighborhood participation and a high degree of satisfaction with neighborhood character, services and infrastructure.

The City provides funding and outreach for neighborhood participation

MEASURE	2014	2015	2016	2017	2018	Target
<i>Subscriptions/number of e-bulletins sent out</i>	1281/317	1313/264	1447/131	1996/62 ¹	2486/59	N/A
<i>Neighborhood CIP funding</i>	\$150,000	\$350,000	\$350,000	\$350,000	\$350,000	N/A
<i>Number/amount of neighborhood matching grants</i>	10/\$7,943	11/\$19,250	11/\$5,955	10/\$17,628	10/\$8,031	N/A

So that...

Residents participate in their neighborhoods and citywide forums

<i>Value of Volunteer hours in neighborhood projects</i>	\$73,862	\$39,452	\$40,675	\$69,190	\$18,148	N/A
<i>Number of attendees at City Council neighborhood meetings</i>	177	231	79	101	273 ²	N/A
<i>Number of questions submitted to City Council neighborhood meetings</i>	68	69	31	41	²	N/A
<i>KAN Neighborhood University attendees</i>	80	350	130	208	³	N/A

So that...

Residents are satisfied with City services and the quality of life in their neighborhoods

<i>Residents surveyed are satisfied with neighborhood infrastructure and maintenance (satisfactory or better)</i>	82%	*	81%	*	81%	90%
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¹ Decrease in e-bulletins sent due to the consolidation of bulletins into the City's weekly email digest, "This Week in Kirkland"

² Beginning in 2018, City Council began utilizing topical town halls and other community meetings for direct community interaction in lieu of City Council neighborhood meetings.

³ Neighborhood Services staff placed the Neighborhood University program on temporary hiatus to explore program strategy and seek feedback from the Kirkland Alliance of Neighborhoods.

* Community Survey conducted in even years

HOW DO WE MEASURE NEIGHBORHOOD SERVICES?

Resident satisfaction with Neighborhood Services demonstrates how well the City understands the needs of residents and subsequently invests in neighborhood planning and capital improvements.

Rates of resident participation in neighborhood activities reflect the neighborhood organizing work done through the Neighborhood Services Division.

Communications, neighborhood funding and outreach programs demonstrate how the City actively connects residents with resources and stimulates participation in local government.

These measures are chosen to account for the neighborhood organizing work done through the Neighborhood Services Division of the City Manager's Office. This is only one element of what influences a resident's satisfaction with government and their neighborhood.

WHAT IS THE CITY'S ROLE?

The City is committed to supporting neighborhoods by:

- Providing neighborhoods with resources to address needs;
- Strengthening the relationship between City Hall and the neighborhoods;
- Supporting the neighborhood associations in expanding their membership;
- Increasing awareness of City services; and
- Building partnerships to improve Kirkland's neighborhoods.

The Neighborhood Services staff provides outreach and resources through personal contact, coordination with the City's Communication Program and the City website.

The City distributes neighborhood matching grants for neighborhood projects. Project creation and volunteerism enable residents to actively participate in local government, build community and improve the quality of life in their neighborhood.

Neighborhood Services connects residents with citywide issues by coordinating opportunities for community input on issues and decisions considered by the City Council. These opportunities include large town hall style events as well as other civic engagement activities.

The Kirkland Alliance of Neighborhoods (KAN), with the help of the City, leads periodic Neighborhood University sessions. These classes teach residents about City government, neighborhood organizing, and leadership. KAN meets ten times a year to exchange information about neighborhood issues, network, provide educational opportunities for neighborhood leaders, and connect with City services.

Representatives from the Kirkland Alliance of Neighborhoods and other neighborhood leaders worked with City staff to develop and implement the Neighborhood Safety Program. The purpose of the program is to "reenergize neighborhoods through partnerships on capital projects implementation".



Neighborhoods USA (NUSA) recognized the City of Kirkland's 'Neighborhood Safety Program' in 2018 with a Best Neighborhood Program Award. This rewards outstanding programs from across the country instituted by a government, business or corporation that implement programs to improve neighborhoods. Kirkland was awarded third place in the physical revitalization program category.

Neighborhood Safety Program's purpose is to re-energize the Kirkland Neighborhood Associations by empowering them to work collaboratively to identify, prioritize and address pedestrian and bicycle safety issues. It is funded by the voter approved 2012 Streets Levy, and the City Council's Walkable Kirkland Initiative. Projects are suggested by both the public and the City, who work together to make crosswalks, bike lanes, traffic calming, improvements, and new projects a reality.

Themed Resident Engagement

At the City Council Retreat on February 23, 2018, Council indicated a preference for Citywide, topical Town Halls as a valuable method for the Council to directly engage and dialogue with the community. As such, City staff discontinued the City Council Meetings in the Neighborhoods in favor of themed resident engagement on various policy topics. One example of this new approach included a Town Hall on June 20, 2018, focused on the topic of Gun Safety. With over 180 community members, the event provided actionable insight to the Council and was widely viewed as a success by the Council, staff, and the public.



GOAL

Ensure the construction and preservation of housing stock that meets a diverse range of incomes and needs.

The City funds affordable housing

So that...

The City has a sufficient stock of affordable housing to meet the needs of the community

MEASURE	2014	2015	2016	2017	2018	Target
City contributions to ARCH (A Regional Coalition for Housing) Trust Fund*	\$452,340	\$478,476	\$476,345	\$590,598	\$590,560	\$307,000 to \$455,000
Number of low income housing units produced	19	7	101**	97	***	69 units per year
Number of moderate income housing units produced	8	7	174**	30	***	49 units per year
Total number of low and moderate income units brought online	27	14	275**	127	***	118 units per year

* Includes General Funds, Community Development Block Grant Funds, and reallocation of affordable housing loans that have been repaid.
 ** 89 of the low income and 143 of the moderate income units are Residential Suites – single room living units of 120 to 350 square feet with shared bathroom and/or kitchen facilities.
 *** Not yet available.

HOW DO WE MEASURE AFFORDABLE HOUSING?

King County’s Countywide Planning Policies determine the affordable housing targets for cities based on a variety of factors, including the projected affordable housing needs of low- and moderate-income households, the existing stock of market rate and subsidized housing, and the number of jobs by wage level and location.

Kirkland’s progress towards meeting those targets include affordable housing units that have been built as a result of:

- Housing Trust Fund contributions
- Housing regulations that the City has adopted, such as affordable housing requirements, Accessory Dwelling Units, Residential Suites, and tax exemptions
- Private housing development with market rents at affordable levels



HOW ARE WE DOING?

Progress towards meeting affordable housing targets established in the Countywide Planning Policies fluctuates annually. This is due to a variety of factors, including when the City contributions to the ARCH (A Regional Coalition for Housing) Trust Fund get allocated and to which projects. Kirkland has continually participated above target levels to this fund for the past five years, helping to get affordable housing built in the region and the City.

This is necessary because housing costs continue to rise in Kirkland. While median income is also high, many who work in the City cannot afford to live in or own a home here. To combat this, the City has worked to increase capacity and affordability by changing zoning to add capacity through mixed use zoning, as well as allowing cottages and Accessory Dwelling Units. The City also supports and incentivizes affordable housing through short term tax exemptions, and requiring a portion of affordable units in new development.

WHAT ARE WE DOING?

Kirkland continues to take a multi-faceted approach to creating a diverse housing stock that meets a variety of income ranges and needs. Several multi-family and mixed-use developments in areas where affordable housing will be required by zoning regulations are currently in the pipeline, based on conversations with developers prior to permit submittal through projects that are already under construction. The City's growing list of regulations to encourage and enable affordable and diverse housing include:

- Accessory Dwelling Units
- Small lot single family allowances
- Cottage and carriage housing regulations
- Residential suites
- Affordable housing requirements with offsetting density bonuses
- Multi-family residential tax exemptions
- Standards for transit-oriented development at South Kirkland Park and Ride
- Impact fee exemptions for affordable housing

Planning staff and the Housing Strategy Advisory Group completed the process of preparing a new Housing Strategy Plan to provide direction for additional future initiatives that the City will undertake in support of affordable and diverse housing. In addition, the City sees a tremendous return on its annual investment in the ARCH Housing Trust Fund. Approximately 75% of the low-income units and about 20% of the moderate income units that the City has been given credit for producing are a result of financial contributions made by the City to affordable housing projects within Kirkland and other ARCH cities through the ARCH Housing Trust Fund. The remaining units are a result of regulations that require affordable housing or allow the construction of diverse housing, such as ADUs and residential suites.

HOUSING STRATEGY PLAN



Plan & Action

In early 2017, the City Council appointed a 16-member Housing Strategy Advisory Group to work with staff to prepare a new Housing Strategy Plan to guide the City's future work on housing issues. This dedicated Advisory Group consisted of community members from a variety of backgrounds, who met over a 15-month period, to develop strategies that would implement all three goals in the Housing Element of the City's Comprehensive Plan. Those goals are:

- Goal H-1: Maintain and enhance the unique residential character of each City neighborhood.
- Goal H-2: Ensure that Kirkland has a sufficient quantity and variety of housing to meet projected growth and needs of the community.
- Goal H-3: Promote affordable and special needs housing throughout the City for all economic segments of the population.

The Housing Strategy Plan was adopted by the City Council on May 1, 2018 and includes strategies for each of these areas, as well as actions for the City to undertake in the next three to five years. The Plan process is designed to be iterative – once the top priority strategies have been addressed, the City will consider what its next steps should be.

The first projects the City will undertake to translate the Housing Strategy Plan into action are:

- Updating regulations for Accessory Dwelling Units (ADUs), cottages, duplexes and triplexes in single-family neighborhoods to increase the variety and number of smaller housing units throughout the community;
- Lobbying the State legislature for more tools to encourage low- and moderate-income housing development;
- Promoting more opportunities for home ownership by supporting legislative changes to the State Condominium Act; and
- Seeking funding for a Transit Oriented Development pilot project at the Kingsgate Park and Ride.

GOAL

Maintain levels of service commensurate with growing community requirements at optimum life-cycle costs.

City funds and staffs infrastructure maintenance

So that...

Infrastructure monitoring indicates good conditions

MEASURE	2014	2015	2016	2017	2018	Target
Transportation Capital Projects Funding	\$11,917,000	\$11,089,300	\$28,835,500	\$33,555,200	\$27,431,400	N/A
Water/Sewer Capital Project Funding	\$5,597,000	\$5,679,000	\$4,477,000	\$7,905,000	\$5,095,000	N/A
Surface Water Capital Project Funding	\$3,382,300	\$2,360,900	\$2,531,900	\$4,818,000	\$3,760,500	N/A
Street Maintenance crew FTE's per 100 lane miles	3.23	3.07	3.07	3.14	3.65	N/A
Water/Sewer Maintenance crew FTE's per 100 miles of water and sewer mains	5.44	5.54	5.59	5.66	5.66	N/A

So that...

Kirkland has well maintained and sustainable infrastructure that meets the functional needs of the community

Pavement Condition Index for Major and Minor Arterial Streets	62.6	77.0*	79.0	77.5	75.3	80
Pavement Condition Index for Collectors and Neighborhood Streets	72.8	78.3*	80.2	80.0	76.5	80
Residents surveyed rate street maintenance as satisfactory or better	82%	**	82%	**	81%	90%
Water Main Breaks	2	2	4	5	12	0
Sewer Obstructions	2	1	0	0	1	0

* The increase in PCI results from a combination of improved conditions and a change in survey methodology.

** Community Survey conducted in even years.

HOW DO WE MEASURE DEPENDABLE INFRASTRUCTURE?

The City of Kirkland relies on four measures to determine how well it is maintaining its residents' infrastructure.

- The Pavement Condition Index measures the health of the street network
- The number of water main breaks in the previous year measures the condition of the City's water delivery system.
- The number of sewer obstructions in a given year measures the effectiveness of the wastewater collection system.
- A biennial, statistically valid survey measures residents overall satisfaction in their local government and the services they get from it.

The availability of funding and staff directly affects how well the City of Kirkland can maintain these essential services.

HOW ARE WE DOING?

Kirkland voters approved a permanent property tax levy in 2012 to enhance funding of the City's street maintenance and pedestrian safety measures. Since that year, the Pavement Condition Index, which measures the street network's condition, has improved. The condition of major and minor arterials improved from 62.8 in 2014 to 77.4 in 2018. The Pavement Condition Index score for collectors and neighborhood streets has improved as well—from 72.8 in 2014 to 80.8 in 2018. Despite this, residents' satisfaction of street maintenance has remained below the 90 percent target.

The improvement of Kirkland's street network score on the Pavement Condition Index results from two factors. The first is a successful pavement maintenance program. The second is a change to the way Kirkland measures its streets' conditions.

Throughout the last couple of years, water main breaks and sewer obstructions have been rare. Kirkland's water delivery system suffered from twelve water main breaks and one sewer obstruction in 2018. Kirkland's goal remains zero incidents per year.

WHAT ARE WE DOING?

Adopted in 2015, the Transportation Master Plan guides the City to "[e]stablish an acceptable level of service for all modes." Progress towards those goals are to be reported annually, and in 2018 that report was formatted into an infographic. The 2018 progress report shows six units, with one to three modules per unit. The first five units are ordered consistent with the five priority areas identified in the TMP; safety, walk, bike, transit, drive. The sixth unit highlights key ongoing transportation projects.

INVESTING IN OUR COMMUNITY FINAL PHASE: Sixth Street Corridor Improvement Project



2019 TIMELINE: Shows construction completion & sewer upgrades. City receives Sixth Street signals at Kirkland Way, 4th Ave & 10th Ave.

LEGEND: Includes categories like Signalized Intersections, Pedestrian/Bicycle Bridge, etc.

2 MONTH PROJECT: This October, Kirkland's contractor will complete the Sixth Street corridor's last major improvement project: rehabilitating and repaving the roadway from Fourth Avenue to Northeast 68th Street.

WHAT TO EXPECT: The contractor plans to complete most of the heaviest tasks during the day and to schedule less loud tasks, such as parking and staging, at night. Engagers will direct traffic around any closed lanes.

Senior Project Engineer George Minasian, Ph.D., P.E., will be onsite near the Cross Kirkland Corridor at 9 a.m. every Tuesday to monitor work and to answer questions from the community.

MORE INFORMATION: WWW.KIRKLANDWA.GOV/6THSTREET

6th Street Utilities

Kirkland's contractor began construction in October 2018 to upgrade the five-decade-old cast iron and concrete water and concrete sewer mains that run beneath Sixth Street South. More than 2,200 linear feet of eight-inch water main and more than 1,000 feet of sewer main were upgraded as part of a comprehensive effort to increase capacity and improve reliability in that area. The City also coordinated the private communication cabling system upgrade projects, completing the underground utility work necessary prior to re-paving the 6th Street corridor. Kirkland has designed and completed the rehabilitation repaving of 6th Street from 4th Avenue to NE 68th Street, completing the Sixth Street South Corridor Projects a year ahead of schedule.

Monitoring progress toward transportation goals for 2015-2035 (TMP p. 101)

Kirkland Transportation Master Plan 2018 Progress Report

SAFETY

COLLISION NUMBERS

Year	Disabling Injuries	Fatalities
2013-2015	30	3
2016-2018	31	3

COLLISION RATES

Year	Disabling Injuries (per 100 million vehicle miles)	Fatalities (per 100 million vehicle miles)
2013-2015	1.21	0.12
2016-2018	1.20	0.12

WALK

SCHOOL WALK ROUTES (SWR)
96% of SWRs network has sidewalk*
9 of 12 elementary school walk routes are 100%*
> Muir 94%, Sandburg 90%, Twain 86%

CROSSWALKS
16% of 71 light deficient crosswalks now have sufficient lighting.

TEN MINUTE NEIGHBORHOODS 99.7% of highest scoring 10 Minute Neighborhood walk routes has sidewalk*
In 10 minute neighborhoods, residents can walk short distances from home to destinations that meet their daily needs. See the City website and TMP p. 4 for an explanation of which areas citywide score highest for the 10 minute neighborhood concept.

BIKE

BIKE LANES NETWORK
> 40 of 58 miles = 69% of planned bike lane network complete
> 4 of 33 miles = 12% of planned greenways network underway

NEIGHBORHOOD GREENWAYS NETWORK
12% UNDERWAY, 88% PLANNED

Monitoring progress toward transportation goals for 2015-2035 (TMP p. 101)

Kirkland Transportation Master Plan 2018 Progress Report

TRANSIT

SPEED AND RELIABILITY
11 projects slated for completion between 2020 and 2035 contained in the Transit Implementation Plan.

PASSENGER ENVIRONMENT

30 Highest Ridership Bus Stops
3 SHELTER, 27 NO SHELTER

Next stops receiving shelters (expected 2019):
6th St & Kirkland Way (southbound)
NE 132nd St & 100th Ave NE (eastbound)

DRIVE

PAVEMENT

Category	Miles Resurfaced Since 2012 Levy	Goal
Arterials	28 Miles	31% of 20-yr goal
Collectors and Neighborhood Streets	63 Miles	26% of 20-yr goal

INTELLIGENT TRANSPORTATION SYSTEM (ITS)
37 of Kirkland's 56 intersections = 66% of signalized intersections fully updated to City's standard

KEY TRANSPORTATION PROJECTS

41 City transportation projects are underway. Examples:

1. Totem Lake Connector Pedestrian/Bicycle Bridge
2. 100th Ave NE Improvements
3. 6th St Traffic Signals
4. 124th Ave NE Sidewalk Improvements
5. I-405 Bus Rapid Transit

DATA SOURCES

NEIGHBORHOODS

- Neighborhoods Services Division
- Neighborhood Safety Program
- City of Kirkland Work Program 2017-2018
- 2014, 2016, and 2018 Community Opinion Surveys

PUBLIC SAFETY

- Fire & Building Department
- Police Department
- 2014, 2016, and 2018 Community Opinion Surveys

PARKS AND RECREATION

- Parks & Community Services Department
- Comprehensive Parks, Recreation and Open Space (PROS) Plan
- Cross Kirkland Corridor Master Plan
- 20 Year Forest & Natural Areas Restoration Plan
- 2014, 2016, and 2018 Community Opinion Surveys

BALANCED TRANSPORTATION

- Transportation Division
- Active Transportation Plan
- City of Kirkland ITS Strategic Plan
- 2014, 2016, and 2018 Community Opinion Surveys
- Capital Improvement Program Division

HOUSING

- Planning & Community Development Department
- A Regional Coalition for Housing (ARCH)
- Comprehensive Plan, City of Kirkland
- Community Development Block Grant Program
- Finance and Administration Department
- Standard and Poor's Credit Rating
- 2014, 2016, and 2018 Community Opinion Surveys

FINANCIAL STABILITY

- Finance and Administration Department
- Standard and Poor's Credit Rating
- 2014, 2016, and 2018 Community Opinion Surveys
- Kirkland Reporter

HUMAN SERVICES

- Human Services Division
- Parks & Community Services Department
- Agency Reports

ENVIRONMENT

- Parks & Community Services Department
- Planning & Community Development Department
- Public Works Department

ECONOMIC DEVELOPMENT

- Economic Development Program
- Finance and Administration Department
- 2014, 2016, and 2018 Community Opinion Surveys
- CB Richard Ellis Real Estate Services, Market View Puget Sound, 4th Quarter Report
- Washington State Employment Security Division, Puget Sound Regional Council, WA, Covered Employment by City
- 2017 Business Satisfaction Survey

DEPENDABLE INFRASTRUCTURE

- Public Works Department
- Capital Improvement Program Division
- American Public Works Association Water Quality Program
- 2014, 2016, and 2018 Community Opinion Surveys
- Surface Water Master Plan



Thank You Kirkland

For Passing Prop. 1 Enhanced Police Services and Community Safety Ballot Measure



**0.1% Sales Tax (a penny on a \$10 purchase)
Generates approx. \$1.8 million/year to invest in:**

- Community Safety Investments
- Human Service Programs
- Mental Health Programs
- Suicide Prevention
- Domestic Violence Prevention
- Youth Counseling Services
- After School Programs
- 9 Community-Based Policing Officers
- 4 ProAct Unit Officers
- 1 ProAct Support Staff Position
- 4 SROs in Kirkland Middle Schools
- 1 Neighborhood Resource Officer
- 1 Mental Health Professional





www.kirklandwa.gov

**City of Kirkland
2019 Mid-Bi Budget Review
2020 Service Package Requests**

		2020 City Manager Recommended				
		FTE	Temp	Ongoing	One-time	Total
Parks & Community Services						
	Privatize Cemetery RFP	-	-	-	35,000	35,000
	Synthetic Turf Strategic Plan	-	-	-	125,000	125,000
Subtotal Parks & Community Services		-	-	-	160,000	160,000
Public Works						
	Water System Plan Extension & Model Update	-	-	-	118,772	118,772
Subtotal Public Works		-	-	-	118,772	118,772
Finance & Administration						
	Impact Fee Update	-	-	-	100,000	100,000
Subtotal Finance & Administration		-	-	-	100,000	100,000
Planning & Building						
	Senior Planner Increase .20 FTE	-	0.20	26,832		26,832
	Travel & Training (Building Division)	-	-	-	20,000	20,000
	Records Management Project	-	-	-	48,000	48,000
Subtotal Planning & Building		-	0.20	26,832	68,000	94,832
TOTAL ALL FUNDS		-	0.20	26,832	446,772	473,604

CITY OF KIRKLAND 2019-20 SERVICE PACKAGE REQUEST

TITLE	Transportation and Park Impact Fee Model Updates				
DEPARTMENT	COST CENTER		FUND		
Finance and Administration	Financial Planning		General Fund		
COUNCIL GOALS					
<input checked="" type="checkbox"/> Environment	<input checked="" type="checkbox"/> Parks and Open Spaces	<input checked="" type="checkbox"/> Financial Stability	<input checked="" type="checkbox"/> Balanced Transportation	<input checked="" type="checkbox"/> Housing	
<input type="checkbox"/> Human Services	<input checked="" type="checkbox"/> Dependable Infrastructure	<input checked="" type="checkbox"/> Economic Development	<input type="checkbox"/> Neighborhoods	<input type="checkbox"/> Public Safety	
DESCRIPTION					
Funding for a professional services contract to review Kirkland's current Transportation and Park Impact Fee models and methodology and make recommendations to update impact fees to reflect current development trends.					
JUSTIFICATION					
<p>Development in Kirkland has been growing at a rapid pace, which has led to a high volume of impact fee payments for both transportation and park infrastructure investments based on Kirkland's 20-year Capital Facilities Plan (CFP). The estimated costs of impact fee eligible projects in the CFP are the basis of the City's impact fee methodology, and new developments have the potential to create new capacity needs that were not known when the impact fees were last updated, this contract would:</p> <ul style="list-style-type: none"> • Update the Impact Fee models to reflect current capacity needs by accounting for known and forecasted development activity • Incorporate new capacity project needs and calculate their impact fee eligible costs • Develop recommendations on methods and frequency of future impact fee updates and delivery of models that can be updated by Kirkland staff <p>Regular updates to the Transportation and Park Impact Fee models are an important element in the City's capital funding plan to ensure that growth pays for growth, and this work will help keep those models up to date by reflecting the latest capacity needs as they relate to actual development activity.</p>					
Is this Service Package tied to a CIP Project? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes CIP # _____					
NUMBER OF POSITIONS REQUESTED	Ongoing	0.00	One-Time	0.00	
COST SUMMARY	2019		2020		Total
	Ongoing	One-Time	Ongoing	One-Time	
Personnel Services	\$ -	\$ -	\$ -	\$ -	\$ -
Supplies & Services	\$ -	\$ -	\$ -	\$ 100,000	\$ 100,000
Other	\$ -	\$ -	\$ -	\$ -	\$ -
Total Service Package Cost	\$ -	\$ -	\$ -	\$ 100,000	\$ 100,000
Expenditure Savings	\$ -	\$ -	\$ -	\$ -	\$ -
Offsetting Revenue	\$ -	\$ -	\$ -	\$ -	\$ -
Net Service Package Cost	\$ -	\$ -	\$ -	\$ 100,000	\$ 100,000

2019-20 SERVICE PACKAGE REQUEST

TITLE	Transportation and Park Impact Fee Model Updates	0
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PERSONNEL SERVICES

Ongoing Positions	-	Start Month	0	One time Positions	-	
	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries	-	-	-	-	-	-
Benefits	-	-	-	-	-	-
Subtotal Personnel Services	-	-	-	-	-	-

NON-PERSONNEL COSTS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Supplies	-	-	-	-	-	-
Services	-	-	-	100,000	-	100,000
Vehicle Purchase	-	-	-	-	-	-
Capital	-	-	-	-	-	-
Subtotal Other	-	-	-	100,000	-	100,000

Total Before Offsets	-	-	-	100,000	-	100,000
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REVENUE OFFSETS

	2019		2020		Biennial	
Revenue Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Taxes	-	-	-	-	-	-
Permits	-	-	-	-	-	-
Charges for Service	-	-	-	-	-	-
Intergovernmental/Other	-	-	-	-	-	-
Subtotal New Revenue	-	-	-	-	-	-

EXPENDITURE OFFSETS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries and Benefits	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Services	-	-	-	-	-	-
Other/Reserves	-	-	-	-	-	-
Subtotal Expenditure Offsets	-	-	-	-	-	-

Total Offsets	-	-	-	-	-	-
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NET SERVICE PACKAGE COST

	2019		2020		Biennial	
	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
	-	-	-	100,000	-	100,000
Total		-		100,000		100,000

CITY OF KIRKLAND
2019-20 SERVICE PACKAGE REQUEST

TITLE	Synthetic Turf Strategic Plan				
DEPARTMENT	COST CENTER		FUND		
Parks and Community Services	Parks Community Services Admin		General Fund		
COUNCIL GOALS					
<input type="checkbox"/> Environment	<input checked="" type="checkbox"/> Parks and Open Spaces	<input checked="" type="checkbox"/> Financial Stability	<input type="checkbox"/> Balanced Transportation	<input type="checkbox"/> Housing	
<input type="checkbox"/> Human Services	<input checked="" type="checkbox"/> Dependable Infrastructure	<input type="checkbox"/> Economic Development	<input type="checkbox"/> Neighborhoods	<input type="checkbox"/> Public Safety	
DESCRIPTION					
The purpose of the strategic plan is to perform a comprehensive review of the existing athletic facilities and programs and develop a Strategic Plan document to guide decision-making for long- and short-term capital investment in athletic fields.					
JUSTIFICATION					
This service package funds a synthetic turf strategic plan. This involves assessing athletic fields from a system perspective by looking at field locations and field types and analyzing the inventory with community needs. The goal is to create a short and long-term plan on how to invest in fields that would achieve the objectives below.					
Objectives:					
1. Provide modernized/up-to-date sports facilities and venues that will meet the growing needs of the community and support the diverse athletic community.					
2. Facilitate access, ease participation and financial burdens, reduce transportation encumbrances, and enhance equality by having "all" sports facilities equitably distributed throughout the community.					
3. Develop facilities that result in a convenient, maintainable, sustainable, and user-friendly service.					
4. Create an athletic field system that inspires community pride and exudes excellence.					
Is this Service Package tied to a CIP Project? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes CIP # _____					
NUMBER OF POSITIONS REQUESTED	Ongoing	0.00	One-Time	0.00	
COST SUMMARY	2019		2020		Total
	Ongoing	One-Time	Ongoing	One-Time	
Personnel Services	\$ -	\$ -	\$ -	\$ -	\$ -
Supplies & Services	\$ -	\$ -	\$ -	\$ 125,000	\$ 125,000
Other	\$ -	\$ -	\$ -	\$ -	\$ -
Total Service Package Cost	\$ -	\$ -	\$ -	\$ 125,000	\$125,000
Expenditure Savings	\$ -	\$ -	\$ -	\$ -	\$ -
Offsetting Revenue	\$ -	\$ -	\$ -	\$ -	\$ -
Net Service Package Cost	\$ -	\$ -	\$ -	\$ 125,000	\$125,000

2019-20 SERVICE PACKAGE REQUEST

TITLE	Synthetic Turf Strategic Plan	0
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PERSONNEL SERVICES

Ongoing Positions	-	Start Month	0	One time Positions	-	
	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries	-	-	-	-	-	-
Benefits	-	-	-	-	-	-
Subtotal Personnel Services	-	-	-	-	-	-

NON-PERSONNEL COSTS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Supplies	-	-	-	-	-	-
Services	-	-	-	125,000	-	125,000
Vehicle Purchase	-	-	-	-	-	-
Capital	-	-	-	-	-	-
Subtotal Other	-	-	-	125,000	-	125,000

Total Before Offsets	-	-	-	125,000	-	125,000
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REVENUE OFFSETS

	2019		2020		Biennial	
Revenue Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Taxes	-	-	-	-	-	-
Permits	-	-	-	-	-	-
Charges for Service	-	-	-	-	-	-
Intergovernmental/Other	-	-	-	-	-	-
Subtotal New Revenue	-	-	-	-	-	-

EXPENDITURE OFFSETS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries and Benefits	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Services	-	-	-	-	-	-
Other	-	-	-	-	-	-
Subtotal Expenditure Offsets	-	-	-	-	-	-

Total Offsets	-	-	-	-	-	-
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NET SERVICE PACKAGE COST

	2019		2020		Biennial	
	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
	-	-	-	125,000	-	125,000
Total		-		125,000		125,000

CITY OF KIRKLAND 2019-20 SERVICE PACKAGE REQUEST

TITLE	Senior Planner Increase .20 FTE				
DEPARTMENT	COST CENTER		FUND		
Planning and Building	Long Range Planning		General Fund		
COUNCIL GOALS					
<input checked="" type="checkbox"/> Environment	<input type="checkbox"/> Parks and Open Spaces	<input type="checkbox"/> Financial Stability	<input type="checkbox"/> Balanced Transportation	<input checked="" type="checkbox"/> Housing	
<input type="checkbox"/> Human Services	<input type="checkbox"/> Dependable Infrastructure	<input checked="" type="checkbox"/> Economic Development	<input checked="" type="checkbox"/> Neighborhoods	<input type="checkbox"/> Public Safety	
DESCRIPTION					
Expand current ongoing .80 FTE Senior Planner position to 1.0 FTE.					
JUSTIFICATION					
<p>Expand the current ongoing 0.8 FTE Senior Planner position to 1.0 FTE. The incumbent will be retiring within the next 6 months. Adding 0.2 FTE to the position starting in 2020 will:</p> <ul style="list-style-type: none"> • Enable the Department to continue to keep pace with projects on the adopted Planning Work Program • Help complete work on priority Totem Lake projects, including the Kingsgate Park and Ride and Totem Lake Design Guidelines • Expand the pool of qualified applicants those seeking full time employment - rather than recruiting from a much smaller pool of applicants seeking a part time position. <p>The modest increase of 0.2 FTE will help offset the loss of efficiency that come from losing a long-time employee and will significantly help deliver important long range planning projects as well as the larger, more complex development projects that senior planners process.</p>					
Is this Service Package tied to a CIP Project? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes CIP # _____					
NUMBER OF POSITIONS REQUESTED	Ongoing	0.20	One-Time	0.00	
COST SUMMARY	2019		2020		Total
	Ongoing	One-Time	Ongoing	One-Time	
Personnel Services	\$ -	\$ -	\$ 26,832	\$ -	\$ 26,832
Supplies & Services	\$ -	\$ -	\$ -	\$ -	\$ -
Other	\$ -	\$ -	\$ -	\$ -	\$ -
Total Service Package Cost	\$ -	\$ -	\$ 26,832	\$ -	\$26,832
Expenditure Savings	\$ -	\$ -	\$ -	\$ -	\$ -
Offsetting Revenue	\$ -	\$ -	\$ -	\$ -	\$ -
Net Service Package Cost	\$ -	\$ -	\$ 26,832	\$ -	\$26,832

2019-20 SERVICE PACKAGE REQUEST

TITLE	Senior Planner Increase .20 FTE	0
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PERSONNEL SERVICES

Ongoing Positions	-	Start Month	0	One time Positions	-	
	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries	-	-	18,485	-	18,485	-
Benefits	-	-	8,347	-	8,347	-
Subtotal Personnel Services	-	-	26,832	-	26,832	-

NON-PERSONNEL COSTS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Supplies	-	-	-	-	-	-
Services	-	-	-	-	-	-
Vehicle Purchase	-	-	-	-	-	-
Capital	-	-	-	-	-	-
Subtotal Other	-	-	-	-	-	-

Total Before Offsets	-	-	26,832	-	26,832	-
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REVENUE OFFSETS

	2019		2020		Biennial	
Revenue Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Taxes	-	-	-	-	-	-
Permits	-	-	-	-	-	-
Charges for Service	-	-	-	-	-	-
Intergovernmental/Other	-	-	-	-	-	-
Subtotal New Revenue	-	-	-	-	-	-

EXPENDITURE OFFSETS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries and Benefits	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Services	-	-	-	-	-	-
Other/Reserves	-	-	-	-	-	-
Subtotal Expenditure Offsets	-	-	-	-	-	-

Total Offsets	-	-	-	-	-	-
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NET SERVICE PACKAGE COST

	2019		2020		Biennial	
	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
	-	-	26,832	-	26,832	-
Total	-	-	26,832	26,832	26,832	26,832

CITY OF KIRKLAND
2019-20 SERVICE PACKAGE REQUEST

TITLE	Travel and Training (Building Division)				
DEPARTMENT	COST CENTER		FUND		
Planning and Building	Building Administration		General Fund		
COUNCIL GOALS					
<input type="checkbox"/> Environment	<input type="checkbox"/> Parks and Open Spaces	<input type="checkbox"/> Financial Stability	<input type="checkbox"/> Balanced Transportation	<input type="checkbox"/> Housing	
<input type="checkbox"/> Human Services	<input type="checkbox"/> Dependable Infrastructure	<input checked="" type="checkbox"/> Economic Development	<input type="checkbox"/> Neighborhoods	<input type="checkbox"/> Public Safety	
DESCRIPTION					
Increase the building division's travel and training budget to add the necessary resources for staff to attend required training for the new 2020 codes as well as support Kirkland's involvement and partnership at the regional, state, and national level.					
JUSTIFICATION					
<p>In July of 2020, Kirkland will adopt several new codes such as the 2018 International model codes (IBC, IRC, UPC, IFC, IFGC, IMC, IEBC), the WA Cities Electrical Code and the WA State Energy Code. Prior to adoption, staff need training to familiarize themselves with the code changes and updates. Several technical certifications are required in the building division to perform its work functions (inspection, plan review, permit intake, building administration); continuing education units (CEU's) are required to maintain these certifications. The number of certifications has increased dramatically due to increased staffing levels and job requirements. In addition, staff are heavily involved in regional (MBP), state (WABO), and national (ICC) level boards and committees which oftentimes requires travel. An increase to the building division's travel and training budget will add capacity in the following ways:</p> <ul style="list-style-type: none"> • Provide necessary resources to adequately prepare staff for the new building and electrical code adoptions including state and local amendments. • Earn valuable CEU's to fulfill certification requirements and gain specialized knowledge to assist in the enforcement and public education of code requirements. • Allow continued involvement with regional, state and national organizations to support and maintain positive partnerships. By having a seat at the table, Kirkland is able to influence future codes and gain in-depth knowledge of code concepts (intent) and deficiencies that can be addressed through local amendments. In addition, Kirkland provides valuable insight and influence over locally available training. <p>Increasing the building division's travel and training budget allows inspectors, plan reviewers, permit technicians and administrative staff to receive the training they need to maintain their certifications, learn the new codes, and continue to be an active participant in regional, state and national boards and committees including Technical Code Development and Education and Training.</p>					
Is this Service Package tied to a CIP Project? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes CIP # _____					
NUMBER OF POSITIONS REQUESTED	Ongoing	0.00	One-Time	0.00	
COST SUMMARY	2019		2020		Total
	Ongoing	One-Time	Ongoing	One-Time	
Personnel Services	\$ -	\$ -	\$ -	\$ -	\$ -
Supplies & Services	\$ -	\$ -	\$ -	\$ 20,000	\$ 20,000
Other	\$ -	\$ -	\$ -	\$ -	\$ -
Total Service Package Cost	\$ -	\$ -	\$ -	\$ 20,000	\$20,000
Expenditure Savings	\$ -	\$ -	\$ -	\$ 20,000	\$ 20,000
Offsetting Revenue	\$ -	\$ -	\$ -	\$ -	\$ -
Net Service Package Cost	\$ -	\$ -	\$ -	\$ -	\$0

CITY OF KIRKLAND 2019-20 SERVICE PACKAGE REQUEST

TITLE	EnerGov Records Management for Code Enforcement				
DEPARTMENT	COST CENTER		FUND		
Planning and Building	Planning and Building Admin		General Fund		
COUNCIL GOALS					
<input type="checkbox"/> Environment	<input type="checkbox"/> Parks and Open Spaces	<input type="checkbox"/> Financial Stability	<input type="checkbox"/> Balanced Transportation	<input type="checkbox"/> Housing	
<input type="checkbox"/> Human Services	<input type="checkbox"/> Dependable Infrastructure	<input checked="" type="checkbox"/> Economic Development	<input checked="" type="checkbox"/> Neighborhoods	<input checked="" type="checkbox"/> Public Safety	
DESCRIPTION					
This project will align our code enforcement hard copy records destruction procedures with the electronic records destruction to follow State retention requirements and insure the City is compliant.					
JUSTIFICATION					
<p>The Code enforcement file retention schedule is regulated by Washington State Archives. The Local Government Common Records Retention Schedule notes that records relating to the enforcement of the local government agency's official code as it relates to code enforcement must be retained for six years after a matter is resolved or closed, and then destroyed. Our Planning and Building code enforcement hard copy files are currently following this schedule and being destroyed as required. However, a process for electronic destruction of code enforcement documents attached to complaint cases in our permit tracking system, EnerGov, has never been instituted and those electronic copies still exist. Therefore, the electronic records are still disclosable if requested via a public records request even though they are past their retention. This project is to develop procedures to combine our hard copy complaint file destruction with a procedure to also have electronic records purged from EnerGov at the same time. Both types of records would then follow the same records retention schedule as required.</p> <p>This project would require:</p> <ul style="list-style-type: none"> •Coordination with the City Clerk's office and IT Department staff working with EnerGov. Identify and tag electronic documents to be destroyed from past years that are attached to cases; •Coordination with State archivist on records retention policies for code enforcement records. Create procedures for ongoing use throughout the year when documents are attached to make sure electronic documents are properly identified for date/year destruction; •Updating year-end procedures for resolved/closed cases so electronic documents are also verified for destruction prior to hard copy files being sent off to archives. <p>Completing this project would allow the City to comply with records retention requirements for our code enforcement files. Possible options to complete this work could be done by hiring temporary help through NW Staffing or WA State Archives or through the use of on-calls.</p>					
Is this Service Package tied to a CIP Project? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes CIP # _____					
NUMBER OF POSITIONS REQUESTED	Ongoing	0.00	One-Time	0.00	
COST SUMMARY	2019		2020		Total
	Ongoing	One-Time	Ongoing	One-Time	
Personnel Services	\$ -	\$ -	\$ -	\$ -	\$ -
Supplies & Services	\$ -	\$ -	\$ -	\$ 48,000	\$ 48,000
Other	\$ -	\$ -	\$ -	\$ -	\$ -
Total Service Package Cost	\$ -	\$ -	\$ -	\$ 48,000	\$48,000
Expenditure Savings	\$ -	\$ -	\$ -	\$ -	\$ -
Offsetting Revenue	\$ -	\$ -	\$ -	\$ -	\$ -
Net Service Package Cost	\$ -	\$ -	\$ -	\$ 48,000	\$48,000

2019-20 SERVICE PACKAGE REQUEST

TITLE	EnerGov Records Management for Code Enforcement	0
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PERSONNEL SERVICES

Ongoing Positions	-	Start Month	0	One time Positions	-	
	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries	-	-	-	-	-	-
Benefits	-	-	-	-	-	-
Subtotal Personnel Services	-	-	-	-	-	-

NON-PERSONNEL COSTS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Supplies	-	-	-	-	-	-
Services	-	-	-	48,000	-	48,000
Vehicle Purchase	-	-	-	-	-	-
Capital	-	-	-	-	-	-
Subtotal Other	-	-	-	48,000	-	48,000

Total Before Offsets	-	-	-	48,000	-	48,000
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REVENUE OFFSETS

	2019		2020		Biennial	
Revenue Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Taxes	-	-	-	-	-	-
Permits	-	-	-	-	-	-
Charges for Service	-	-	-	-	-	-
Intergovernmental/Other	-	-	-	-	-	-
Subtotal New Revenue	-	-	-	-	-	-

EXPENDITURE OFFSETS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries and Benefits	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Services	-	-	-	-	-	-
Other/Reserves	-	-	-	-	-	-
Subtotal Expenditure Offsets	-	-	-	-	-	-

Total Offsets	-	-	-	-	-	-
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NET SERVICE PACKAGE COST

	2019		2020		Biennial	
	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
	-	-	-	48,000	-	48,000
Total	-	-	-	48,000	-	48,000

CITY OF KIRKLAND 2019-20 SERVICE PACKAGE REQUEST

TITLE	Cemetery RFP				
DEPARTMENT	COST CENTER		FUND		
Finance and Administration	Cemetery Administration		Cemetery Operating		
COUNCIL GOALS					
<input type="checkbox"/> Environment	<input checked="" type="checkbox"/> Parks and Open Spaces	<input type="checkbox"/> Financial Stability	<input type="checkbox"/> Balanced Transportation	<input type="checkbox"/> Housing	
<input type="checkbox"/> Human Services	<input type="checkbox"/> Dependable Infrastructure	<input type="checkbox"/> Economic Development	<input type="checkbox"/> Neighborhoods	<input type="checkbox"/> Public Safety	
DESCRIPTION					
Funding for a professional services contract to evaluate and make recommendations on the feasibility of privatizing the Kirkland's cemetery.					
JUSTIFICATION					
One-time use of \$35,000 for professional services to assist with and evaluate the potential of privatization of the cemetery, including an assessment of the financial feasibility, identification of potential operators, and recommendation of a process should the City choose to pursue privatization.					
Is this Service Package tied to a CIP Project? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes CIP # _____					
NUMBER OF POSITIONS REQUESTED	Ongoing	0.00	One-Time	0.00	
COST SUMMARY	2019		2020		Total
	Ongoing	One-Time	Ongoing	One-Time	
Personnel Services	\$ -	\$ -	\$ -	\$ -	\$ -
Supplies & Services	\$ -	\$ -	\$ -	\$ 35,000	\$ 35,000
Other	\$ -	\$ -	\$ -	\$ -	\$ -
Total Service Package Cost	\$ -	\$ -	\$ -	\$ 35,000	\$35,000
Expenditure Savings	\$ -	\$ -	\$ -	\$ -	\$ -
Offsetting Revenue	\$ -	\$ -	\$ -	\$ -	\$ -
Net Service Package Cost	\$ -	\$ -	\$ -	\$ 35,000	\$35,000

2019-20 SERVICE PACKAGE REQUEST

TITLE	Cemetery RFP	0
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PERSONNEL SERVICES

Ongoing Positions	-	Start Month	0	One time Positions	-	
	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries	-	-	-	-	-	-
Benefits	-	-	-	-	-	-
Subtotal Personnel Services	-	-	-	-	-	-

NON-PERSONNEL COSTS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Supplies	-	-	-	-	-	-
Services	-	-	-	35,000	-	35,000
Vehicle Purchase	-	-	-	-	-	-
Capital	-	-	-	-	-	-
Subtotal Other	-	-	-	35,000	-	35,000

Total Before Offsets	-	-	-	35,000	-	35,000
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REVENUE OFFSETS

	2019		2020		Biennial	
Revenue Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Taxes	-	-	-	-	-	-
Permits	-	-	-	-	-	-
Charges for Service	-	-	-	-	-	-
Intergovernmental/Other	-	-	-	-	-	-
Subtotal New Revenue	-	-	-	-	-	-

EXPENDITURE OFFSETS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries and Benefits	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Services	-	-	-	-	-	-
Other/Reserves	-	-	-	-	-	-
Subtotal Expenditure Offsets	-	-	-	-	-	-

Total Offsets	-	-	-	-	-	-
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NET SERVICE PACKAGE COST

	2019		2020		Biennial	
	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
	-	-	-	35,000	-	35,000
Total		-		35,000		35,000

CITY OF KIRKLAND 2019-20 SERVICE PACKAGE REQUEST

TITLE	Water System Plan Extension and Model Update				
DEPARTMENT	COST CENTER		FUND		
Public Works	Utilities Admin		Water Sewer Utilities Operations		
COUNCIL GOALS					
<input type="checkbox"/> Environment	<input type="checkbox"/> Parks and Open Spaces	<input type="checkbox"/> Financial Stability	<input type="checkbox"/> Balanced Transportation	<input type="checkbox"/> Housing	
<input checked="" type="checkbox"/> Human Services	<input checked="" type="checkbox"/> Dependable Infrastructure	<input type="checkbox"/> Economic Development	<input type="checkbox"/> Neighborhoods	<input checked="" type="checkbox"/> Public Safety	
DESCRIPTION					
A project to extend our 2015 Water System Plan (WSP) approval from 2021 to 2023 while updating our water system model, WSP CIP recommendations, performing seismic analysis, and designing a unidirectional flushing program.					
JUSTIFICATION					
<p>Washington State Department of Health is allowing water systems to extend their WSP to up to 10-year approval periods from 6 if the plan can meet certain requirements. In order to align with Cascade Water Alliance's recent WSP extension and planning period we are electing to extend to 2023 with this project, as well as update our water system model, WSP CIP recommendations, perform water system seismic analysis, and design a unidirectional flushing program.</p> <ul style="list-style-type: none"> •The model update and calibration will utilize all record drawings compiled since 2015 and include flow testing hydrants throughout the system to ensure accuracy. •The seismic analyses will identify earthquake vulnerable areas in our water system and suggest recommendations for upgrade, including design specifications. •The CIP review and update will incorporate information gained during the seismic analyses and model update to realign the project list according to rank score. •The unidirectional flushing program will utilize the information gained in the model update and calibration to increase our overall water quality and consumer confidence. <p>These tasks will benefit system planning, development, fire protection, emergency response, capital improvement, operations and maintenance and customer service. The estimate for the described services is \$168,772. A service package of \$50,000 was approved for the flushing program. We have an additional \$118,772 to cover.</p>					
Is this Service Package tied to a CIP Project? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes CIP # _____					
NUMBER OF POSITIONS REQUESTED	Ongoing	0.00	One-Time	0.00	
COST SUMMARY	2019		2020		Total
	Ongoing	One-Time	Ongoing	One-Time	
Personnel Services	\$ -	\$ -	\$ -	\$ -	\$ -
Supplies & Services	\$ -	\$ -	\$ -	\$ 118,772	\$ 118,772
Other	\$ -	\$ -	\$ -	\$ -	\$ -
Total Service Package Cost	\$ -	\$ -	\$ -	\$ 118,772	\$ 118,772
Expenditure Savings	\$ -	\$ -	\$ -	\$ -	\$ -
Offsetting Revenue	\$ -	\$ -	\$ -	\$ -	\$ -
Net Service Package Cost	\$ -	\$ -	\$ -	\$ 118,772	\$ 118,772

2019-20 SERVICE PACKAGE REQUEST

TITLE	Water System Plan Extension and Model Update	0
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PERSONNEL SERVICES

Ongoing Positions	-	Start Month	0	One time Positions	-	
	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries	-	-	-	-	-	-
Benefits	-	-	-	-	-	-
Subtotal Personnel Services	-	-	-	-	-	-

NON-PERSONNEL COSTS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Supplies	-	-	-	-	-	-
Services	-	-	-	118,772	-	118,772
Vehicle Purchase	-	-	-	-	-	-
Capital	-	-	-	-	-	-
Subtotal Other	-	-	-	118,772	-	118,772

Total Before Offsets	-	-	-	118,772	-	118,772
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REVENUE OFFSETS

	2019		2020		Biennial	
Revenue Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Taxes	-	-	-	-	-	-
Permits	-	-	-	-	-	-
Charges for Service	-	-	-	-	-	-
Intergovernmental/Other	-	-	-	-	-	-
Subtotal New Revenue	-	-	-	-	-	-

EXPENDITURE OFFSETS

	2019		2020		Biennial	
Expenditure Type	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
Salaries and Benefits	-	-	-	-	-	-
Supplies	-	-	-	-	-	-
Services	-	-	-	-	-	-
Other	-	-	-	-	-	-
Subtotal Expenditure Offsets	-	-	-	-	-	-

Total Offsets	-	-	-	-	-	-
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NET SERVICE PACKAGE COST

	2019		2020		Biennial	
	Ongoing	One Time	Ongoing	One Time	Ongoing	One Time
	-	-	-	118,772	-	118,772
Total	-	-	118,772	118,772	118,772	118,772



CITY OF KIRKLAND
Department of Finance & Administration
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Michael Olson, Director of Finance and Administration
 Sandi Hines, Deputy Director – Finance and Budget

Date: October 24, 2019

Subject: **AMENDMENT OF THE 2019-2024 CAPITAL IMPROVEMENT PROGRAM**

RECOMMENDATION:

City Council continues discussion, in conjunction with the Mid-Biennial Budget Update, and provides direction for finalizing updates to the 2019-2024 Capital Improvement Program (CIP) to be brought forward for Council adoption on December 10, 2019. There will be a public hearing for the Mid-Biennial budget adjustments and CIP update following this study session on the regular agenda.

BACKGROUND DISCUSSION:

The Council was presented with proposed updates to the adopted 2019-2024 CIP at the [September 17, 2019](#) study session. Updates presented in September are not included in the list of changes below but are represented in the summary tables in each section. This memorandum provides detail on subsequent changes to the proposed CIP, including those already approved by Council via fiscal notes. The proposed changes are primarily related to the following categories:

- Updates and potential changes related to work program items,
- Updates to project timing and cost for prior Council approved projects, and
- Recognizing any major changes in funding sources (new, increases, decreases), particularly external funding changes.

Revised CIP Summary Tables (**Attachment A**) includes all projects funded during the 2019-2024 time frame, including those that do not require any funding modifications. Projects are listed by area and changes including new projects, modifications, and change in funding status are marked using the key shown below each table.

The following table summarizes key funding sources (excluding external sources, such as grants) for Transportation, Parks, and Utility projects. The current available balance, recommended uses for this update, and the projected remaining balances as of the end of the budget year 2020 are shown.

Resource	Projected Available Balance*	Recommended Uses in Nov. 2019 Update	Projected Remaining Balance
Parks Impact Fees	5,005,191	(3,000,000)	2,005,191
Transportation Impact Fees	1,373,348	(1,258,700)	114,648
REET 1	6,761,399	(4,221,400)	2,539,999
REET 2	7,009,472	(4,921,800)	2,087,672
Water/Sewer Capital Contingency	1,178,600	-	1,178,600
Water/Sewer Construction Reserve	6,171,756	(1,244,600)	4,927,156
Surface Water Capital Contingency	1,022,760	-	1,022,760
Surface Water Construction Reserve	2,276,785	(1,455,300)	821,485

* Projected Available Balance is net of Council approved fiscal notes through October 2019 and includes proposed project close-out savings.

Key Funding Source Issues

One of the key funding components of the Transportation and Parks CIP is impact fees. Each CIP area has its own respective impact fee revenue stream based on adopted methodology and law for determining the fee structure, who pays, how the revenues can be used and in what timeframe. The current impact fee structures were last updated in 2015 and are due for a full review and update in the next biennial budget process. An operating service package for an impact fee study for both Transportation and Parks impact fees has been submitted as a mid-biennial budget request for 2020.

A second funding source that is essential to the Transportation and Public Safety CIP is debt. The Transportation CIP includes six projects that are proposed to be partially funded by debt during the 2019-2024 program. These projects are all large projects that provide transportation capacity and meet concurrency requirements set forth under the Growth Management Act (GMA). As discussed in the Council Study Session on July 3, 2018, debt financing of these particular projects meets the following policy objective articulated in Resolution R-5314, which set policy principles for prioritization in the 2019-2024 CIP:

[t]he completion of projects necessary to ensure adequate transportation concurrency investments that keep pace with development.

In addition to meeting the requirements of the State GMA and the policy objectives of the Kirkland City Council, debt financing of these projects has practical benefits that were discussed in the July 3, 2018 Study Session:

- Completing these projects sooner, rather than later, avoids the extraordinary construction cost escalation that is expected to continue at least over the course of the next few years in our region.
- For those projects that have the potential to receive grant funding, having a funding plan and design/construction schedule helps make the projects more competitive.
- For those projects that have already been awarded grant funding, debt financing of the City portion of the project costs enables staff to complete the projects within the grantors' required or anticipated timeframes.

The following table lists the projects with the total amount of debt programmed for 2019-2024:

Project #	Project Title	Total Debt
ST 08313	100th Avenue NE Roadway Improvements (North Section)	1,256,000
ST 08314	100th Avenue NE Roadway Improvements (Mid-North Section)	2,611,100
ST 08900	Juanita Drive Intersection and Safety Improvements	4,550,000
NM 08610	NE 124th St/124th Ave NE Ped Bridge Design and Construction	10,923,000
NM 12300*	Totem Lake Public Improvements Phase I	1,485,000
NM 12400	Totem Lake Public Improvements Phase II	6,015,000
TR 09400	NE 132nd St/108th Avenue NE Intersection Improvements	500,000
Total Debt to be Issued 2019-2024		27,340,100

* Project NM 12300 Totem Lake Public Improvements Phase I was budgeted in the prior 2017-2022 CIP, however, the \$1.485 million of debt associated with that project is to be issued along with companion project NM 12400 Totem Lake Public Improvements Phase II.

In addition to the Transportation debt financing, a potential Public Safety bond measure for fire station renovations and replacements is being considered for fall 2020 in the range of \$55 – \$70 million.

Given the amount of debt funding needed to complete the Transportation projects, the Finance Department staff consulted with the City's bond counsel and financial advisor to determine the best timing for issuance. The City's debt policies require a debt affordability analysis and an analytical review to include monitoring market opportunities and structuring and pricing of debt before it can be issued. As part of the analysis, the Public Works CIP staff projected the timing of the project's stages (i.e. design, permitting, construction, etc.) to determine when cash is needed to pay for the associated expenses. Based on this analysis, the second quarter of 2020 would be the earliest expenses are incurred for projects that need debt. Staff consulted with bond

counsel and the financial advisor to determine the best timing given current market conditions. Bond counsel and the financial advisor's recommendation is to do a large issue (i.e. \$18 million) in the first quarter of 2020 with a smaller (less than \$10 million) issuance later (e.g. early to mid-2021). This strategy would allow for the second issuance to be bank eligible bonds, which provides the City better rates and a larger pool of purchasers.

Based on this recommendation, January would be the target month to bring an authorizing ordinance before Council. Given the magnitude of the issuance, the complex nature of debt issuance, and new Council members starting in January, it is proposed that a study session be set for the first Council meeting in January 2020 for bond issuance education. The authorizing ordinance would then be slated for the second Council meeting in January. This schedule would allow for issuance in the first quarter of 2020.

PROJECT UPDATE HIGHLIGHTS

The following section highlights recommended changes (i.e. cost increases or decreases, project scope changes, or corrections) to the update presented to Council at the September 17 study session. There have been no changes to any CIP section's unfunded project list.

TRANSPORTATION

Funded Projects - Modified Projects

- **CKC to Redmond Central Connector** (NM 08100) – The Council memo for the September 17 study session was correct in the description of additional funding needs of \$822,400, however, the funding mix of City and external funding was incorrect in the attached CIP Summary Tables. No additional funds are being requested since the September study session, but the CIP Summary Tables (Attachment A) have been corrected to include \$55,000 more in City funding (REET 2) and \$55,000 less in External funding.
- **100th Avenue Projects** – There are four major transportation projects in the 2019-2024 CIP related to improvements along 100th Avenue. The projects include:
 - 100th Avenue NE Roadway Improvements (North Section) – ST 08313
 - 100th Avenue NE Roadway Improvements (Mid-North Section) – ST 08314
 - 100th Avenue NE/Simonds Road Intersection Improvements – TR 13500
 - 100th Avenue NE/145th Street Intersection Improvements – TR 13600

There is no additional funding being requested in this CIP update for these projects, however, a funding mix change previously approved by Council is being incorporated that was not done as part of the September 17 update. The Council approved a change in funding mix for all four projects in March 2019 due to the City not receiving proposed external grant funding. The total shortfall of external funds for all four projects was \$5,354,900. The shortfall was funded by a combination of \$465,300 from REET 2 Reserves and a balance of \$4,889,600 of transportation impact fees in the Totem Lake Intersection Improvements project.

	6-Year Funded CIP	Unfunded CIP	Total CIP
Adopted 2019-2024 Transportation CIP	95,292,100	383,518,000	478,810,100
<i>Changes presented at September 17, 2019 study session</i>			
ST 00600 Annual Street Preservation Program	427,500	-	427,500
ST 00603 Street Levy Street Preservation	584,900	-	584,900
ST 00604 Central Way Street Preservation	28,700	-	28,700
ST 00605 Totem Lake Blvd Gateway & Roadway Repair	1,690,000	-	1,690,000
ST 00606 6th Street South Rehabilitation Program	(550,000)	-	(550,000)
ST 08000 Annual Street Striping Program	368,000	-	368,000
ST 08900 Juanita Drive Intersection & Safety Improvements	205,200	-	205,200
ST 10300 NE 128th St Multimodal Corridor Study	211,000	-	211,000
ST 10400 General Right of Way Acquisition	2,000,000	-	2,000,000
NM 08100 CKC to Redmond Central Connector	822,400	-	822,400
NM 10200 NE 120th Street Sidewalk	400,000	-	400,000
NM 11302 Citywide Greenways Network Project-128th Ave NE	488,300	-	488,300
TR 09300 NE 132nd St/Juanita H.S. Access Road Intersection Improv.	137,400	-	137,400
TR 12400 116th Ave NE/NE 124th Street Intersection Improvements	823,000	-	823,000
TR 13700 Lake Street/Kirkland Avenue Intersection Improvements	124,500	-	124,500
TR 13900 NE 85th St/132nd Ave NE Dual Left Turn Lanes	1,508,700	-	1,508,700
PT 00400 108th Ave NE Transit Queue Jump - Phase I	4,875,300	-	4,875,300
PT 00500 108th Ave NE Transit Queue Jump - Phase II	5,640,100	-	5,640,100
ST/NM/TR* Inflation increases for remaining 2019/2020 projects	1,515,200	-	1,515,200
<i>Subtotal Changes presented at September 17, 2019 study session</i>	<i>21,300,200</i>	<i>-</i>	<i>21,300,200</i>
<i>Changes discussed in this memorandum</i>			
	-	-	-
<i>Subtotal Changes discussed in this memorandum</i>	<i>-</i>	<i>-</i>	<i>-</i>
Subtotal All Changes to Adopted 2019-2024 Transportation CIP	21,300,200	-	21,300,200
Proposed Updated 2019-2024 Transportation CIP	116,592,300	383,518,000	500,110,300

* Combined total of projects with inflation-only increases. See the September 17, 2019 study session materials for a detail list of the projects.

WATER/SEWER UTILITY

There have been no changes to the funded and unfunded Water/Sewer Utility CIP since the September 17, 2019 study session.

	6-Year Funded CIP	Unfunded CIP	Total CIP
Adopted 2019-2024 Water/Sewer CIP	41,853,000	53,288,000	95,141,000
<i>Changes presented at September 17, 2019 study session</i>			
WA 15300 3rd Street Watermain Improvement	328,300	-	328,300
SS 00600 Trend Lift Station Elimination	496,900	-	496,900
WA/SS * Inflation increases for other 2019/2020 projects	641,900	-	641,900
<i>Subtotal Changes presented at September 17, 2019 study session</i>	<i>1,467,100</i>	<i>-</i>	<i>1,467,100</i>
<i>Changes discussed in this memorandum</i>			
	-	-	-
<i>Subtotal Changes discussed in this memorandum</i>	<i>-</i>	<i>-</i>	<i>-</i>
Subtotal All Changes to Adopted 2019-2024 Water/Sewer CIP	1,467,100	-	1,467,100
Proposed Updated 2019-2024 Water/Sewer CIP	43,320,100	53,288,000	96,608,100

* Combined total of projects with inflation-only increases. See the September 17, 2019 study session materials for a detail list of the projects.

*SURFACE WATER***Funded Projects****New Projects**

- **Spinney Homestead Park Regional Stormwater Facility-Design** (SD 12600) – The Council approved a resolution on October 15th to direct staff to pursue the feasibility and subsequent design of a regional stormwater facility at Spinney Homestead Park. The proposed design phase of the project is \$471,000 and is proposed to be funded by Kirkland's share of the King County Flood Control District's Sub-Regional Opportunity Fund.

Modified Projects

- **Neighborhood Drainage Assistance Program** (SD 08100) – An increase is proposed for 2019 in the amount of \$125,000 due to the addition of a newly identified neighborhood site for groundwater improvements. Additional funding would come from a transfer from the Surface Water Operating budget.
- **142nd St Surface Water Drainage Improvements** (SD 08900) – Since the September study session, the City has been awarded \$325,000 of the requested \$539,000 grant from King County Surface Water Flood Control. The project will move forward with a reduced scope that excludes the additional vault that was proposed to be added with the full grant award. No additional City funds are recommended to be added to the project.
- **Property Acquisition Opportunity Fund** (SD 10500) – Grant funding of \$139,225 has been awarded through the King County Conservation Futures Trust (CFT) for the purchase of property on 100th Ave NE for conservation and water quality purposes. Match funding of \$223,775 will be provided with existing unencumbered project balances in this project, of which the current available balance is \$268,956. Total estimated cost for acquisition is \$363,000.

	6-Year Funded CIP	Unfunded CIP	Total CIP
Adopted 2019-2024 Surface Water CIP	19,378,600	21,555,000	40,933,600
<i>Changes presented at September 17, 2019 study session</i>			
SD 07600 NE 141st Street/111th Avenue NE Culvert Headwall Repair	295,000	-	295,000
SD 08800 Comfort Inn Pond Modifications	384,300	-	384,300
SD 08900 NE 142nd Street Surface Water Drainage Improvements	752,800	-	752,800
SD 10800 Maint. Center Storm Water Pollution Prevention Plan	440,000	-	440,000
SD 12300 Lake Street Storm Water Repair	124,900	-	124,900
SD 12500 NE 120th St Water Quality Treatment	738,000	-	738,000
SD * Inflation increases for remaining 2019/2020 projects	367,000	-	367,000
<i>Subtotal Changes presented at September 17, 2019 study session</i>	<i>3,102,000</i>	<i>-</i>	<i>3,102,000</i>
<i>Changes discussed in this memorandum</i>			
SD 08100 Neighborhood Drainage Assistance Program	125,000	-	125,000
SD 08900 NE 142nd Street Surface Water Drainage Improvements	(214,000)	-	(214,000)
SD 10500 Property Acquisition Opportunity Fund	139,225	-	139,225
SD 12600 Spinney Homestead Park Regional Stormwater Facility-Design	471,000	-	471,000
<i>Subtotal Changes discussed in this memorandum</i>	<i>521,225</i>	<i>-</i>	<i>521,225</i>
Subtotal All Changes to Adopted 2019-2024 Surface Water CIP	3,623,225	-	3,623,225
Proposed Updated 2019-2024 Surface Water CIP	23,001,825	21,555,000	44,556,825

* Combined total of projects with inflation-only increases. See the September 17, 2019 study session materials for a detail list of the projects.

*PARKS***Funded Projects - Modified Projects**

- **132nd Square Park Playfields Renovation (PK 13400)** – Since the September study session, the Council has approved through resolution the Master Plan for 132nd Square Park. The resolution included the following key components:
 - Approved the proposed Master Plan for 132nd Square Park;
 - Provided direction to return to Council with funding options for Phase 2 elements at the November 6 Council meeting;
 - Provided direction to fund a Synthetic Turf Strategic Plan; and
 - Provided direction to update the Athletic Field Use Policy to ensure unscheduled, unprogrammed time on all athletic fields, including 132nd Square Park.

As listed in the second bullet, the Parks Department has placed on the agenda for this same meeting options for Phase 2 elements with funding options. The 132nd Square Park Playfields Renovation project remains unchanged from the September 17th study session in the CIP update presented tonight awaiting Council direction regarding park elements and funding. Council direction will be incorporated into the 2019-2024 CIP update brought back in December for adoption.

The Synthetic Turf Strategic Plan has been requested as a Service Package with the 2019-2020 Mid-Biennial budget adjustment and will move forward through that process.

	6-Year Funded CIP	Unfunded CIP	Total CIP
Adopted 2019-2024 Parks CIP	22,798,200	130,990,000	153,788,200
<i>Changes presented at September 17, 2019 study session</i>			
PK 06600 Parks, Play Areas and Accessibility Enhancements	15,000	-	15,000
PK 11901 Juanita Beach Park Bathhouse Replacement	1,000,000	-	1,000,000
PK 13310 Dock and Shoreline Renovations	460,000	-	460,000
PK 13400 132nd Square Park Playfields Renovations	1,000,000	-	1,000,000
PK 13530 Juanita Heights Park Trail	243,800	-	243,800
PK 13902 Totem Lake Park Development - Expanded Phase I	1,000,000	-	1,000,000
PK 14700 Parks Maintenance Center	1,458,351	-	1,458,351
Subtotal Changes presented at September 17, 2019 study session	5,177,151	-	5,177,151
<i>Changes discussed in this memorandum</i>			
	-	-	-
Subtotal Changes discussed in this memorandum	-	-	-
Subtotal All Changes to Adopted 2019-2024 Parks CIP	5,177,151	-	5,177,151
Proposed Updated 2019-2024 Parks CIP	27,975,351	130,990,000	158,965,351

*PUBLIC SAFETY***Funded Projects - Modified Projects**

- **Fire Station 24 Replacement (PS 30022)** – Total project cost increased by \$270,000 in 2019 for upgraded construction techniques and resiliency to address liquefaction issues. Additional funding proposed from REET 1 reserves.

	6-Year Funded CIP	Unfunded CIP	Total CIP
Adopted 2019-2024 Public Safety CIP	9,719,100	40,223,100	49,942,200
<i>Changes presented at September 17, 2019 study session</i>			
PS 08200 Water Rescue Craft Storage and Lift	87,900	-	87,900
PS 10000 Police Equipment Replacement	122,800	-	122,800
PS 30021 Fire Station 24 Land Acquisition	1,300,000	-	1,300,000
PS 30022 Fire Station 24 Replacement	1,767,600	-	1,767,600
PS 30030 Fire Station 27 Land Acquisition	4,262,619	-	4,262,619
PS 06800 Local Emergency/Public Communication AM Radio	-	(119,100)	(119,100)
PS 12000 Police Strategic Plan	-	(250,000)	(250,000)
Subtotal Changes presented at September 17, 2019 study session	7,540,919	(369,100)	7,171,819
<i>Changes discussed in this memorandum</i>			
PS 3022 Fire Station 24 Replacement	270,000	-	270,000
Subtotal Changes discussed in this memorandum	270,000	-	270,000
Subtotal All Changes to Adopted 2019-2024 Public Safety CIP	7,810,919	(369,100)	7,441,819
Proposed Updated 2019-2024 Public Safety CIP	17,530,019	39,854,000	57,384,019

GENERAL GOVERNMENT – TECHNOLOGY

Funded Projects

Modified Projects

- **Network Server & Storage Replacements** (IT 10000) – Updated estimates have been received since the September study session for the storage equipment needed for on-premise network storage. The updated equipment cost is an additional \$32,500 per replacement year, versus \$41,000 that was included with the September update. The updated cost estimates bring the total project amount needed to \$73,500 in 2019 and again in 2024. The total funding need of \$147,000 over the 2019-24 period is proposed to be funded from remaining funds of \$125,000 in the Disaster Recovery project (IT00901) that is no longer needed and \$22,000 from the General Capital Contingency.
- **Cloud Computing Services for Servers and Storage** (IT 12000) – As reported at the September study session, the cloud migration project continues to move towards completion of the final phases. No changes to the CIP or operating budgets for cloud operations have developed since September. Staff is waiting for the cloud expenses to stabilize and will recalibrate the CIP and operating budgets as part of the 2021-2022 Budget process.

	6-Year Funded CIP	Unfunded CIP	Total CIP
Adopted 2019-2024 IT CIP	6,991,900	2,632,000	9,623,900
<i>Changes presented at September 17, 2019 study session</i>			
IT 00304 New City Website & Platform	250,000	(200,000)	50,000
IT 10000 Network Server & Storage Replacements	132,000	-	132,000
Subtotal Changes presented at September 17, 2019 study session	382,000	(200,000)	182,000
<i>Changes discussed in this memorandum</i>			
IT 10000 Network Server & Storage Replacements	65,000	-	65,000
Subtotal Changes discussed in this memorandum	65,000	-	65,000
Subtotal All Changes to Adopted 2019-2024 IT CIP	447,000	(200,000)	247,000
Proposed Updated 2019-2024 IT CIP	7,438,900	2,432,000	9,870,900

*GENERAL GOVERNMENT – FACILITIES***Funded Projects - Modified Projects**

- **Police Detox Tank Conversion** (GG 0132100) – Project was initially approved in 2017 with a \$250,000 budget and was increased an additional \$105,000 as part of the adopted 2019-2020 Budget for a total budget of \$355,000. The project was inadvertently left out of the adopted 2019-2024 CIP and is being included with the 2019-2024 CIP update process. Total project funding is proposed to be increased by \$65,000 for a revised total project budget of \$420,000. Additional funding to come from remaining funds on the Public Safety Campus Phase 4 (GGC 0131400) project.

	6-Year Funded CIP	Unfunded CIP	Total CIP
Adopted 2019-2024 Facilities CIP	3,662,700	-	3,662,700
<i>Changes presented at September 17, 2019 study session</i>			
GG 04300 Eductor Truck Bay Expansion	250,000	-	250,000
Subtotal Changes presented at September 17, 2019 study session	250,000	-	250,000
<i>Changes discussed in this memorandum</i>			
GG 01321 Detox Tank Conversion	420,000	-	420,000
Subtotal Changes discussed in this memorandum	420,000	-	420,000
Subtotal All Changes to Adopted 2019-2024 Facilities CIP	670,000	-	670,000
Proposed Updated 2019-2024 Facilities CIP	4,332,700	-	4,332,700

2019-2024 CIP Summary by Program

The tables that follow summarize the updated 2019-2024 CIP. Compared to the update presented at the September 17 study session, the funded total has increased by \$1,276,225 and the unfunded total is unchanged. Compared to the Adopted 2019-2024 CIP, the funded total has increased \$40,495,595 and the unfunded total has decreased by \$569,100.

Summary table of changes - November update compared to September update

Area	2019-2024 Capital Improvement Program Update					
	Funded CIP			Unfunded CIP		
	Sept. Update	Current	Change	Sept. Update	Current	Change
Transportation	116,592,300	116,592,300	-	383,518,000	383,518,000	-
Water/Sewer Utility	43,320,100	43,320,100	-	53,288,000	53,288,000	-
Surface Water	22,480,600	23,001,825	521,225	21,555,000	21,555,000	-
Parks	27,975,351	27,975,351	-	130,990,000	130,990,000	-
Public Safety	17,260,019	17,530,019	270,000	39,854,000	39,854,000	-
General Government	-	-	-	-	-	-
Technology	7,373,900	7,438,900	65,000	2,432,000	2,432,000	-
Facilities	3,912,700	4,332,700	420,000	-	-	-
Total	238,914,970	240,191,195	1,276,225	631,637,000	631,637,000	-

Summary table of changes - November update compared to Adopted CIP

Area	2019-2024 Capital Improvement Program Update					
	Funded CIP			Unfunded CIP		
	Adopted	Current	Change	Adopted	Current	Change
Transportation	95,292,100	116,592,300	21,300,200	383,518,000	383,518,000	-
Water/Sewer Utility	41,853,000	43,320,100	1,467,100	53,288,000	53,288,000	-
Surface Water	19,378,600	23,001,825	3,623,225	21,555,000	21,555,000	-
Parks	22,798,200	27,975,351	5,177,151	130,990,000	130,990,000	-
Public Safety	9,719,100	17,530,019	7,810,919	40,223,100	39,854,000	(369,100)
General Government		-		-	-	
Technology	6,991,900	7,438,900	447,000	2,632,000	2,432,000	(200,000)
Facilities	3,662,700	4,332,700	670,000	-	-	-
Total	199,695,600	240,191,195	40,495,595	632,206,100	631,637,000	(569,100)

The table on the following page details the revenue sources for the updated CIP, incorporating the changes listed above.

NEXT STEPS:

Based on Council direction after their review of the 2019-2024 CIP update, staff will make changes and bring back the final 2019-2024 CIP update for formal adoption on December 10, 2019.

**2019-2024 Revised Capital Improvement Program
Revenue Sources (in thousands)**

Dedicated Revenue	2019	2020	2021	2022	2023	2024	6-Year Total
Transportation							
Gas Tax	425	856	660	673	686	647	3,947
Gas Tax (Transportation Package)	200	200	200	200	200	200	1,200
Business License Fees	270	270	270	270	270	270	1,620
Real Estate Excise Tax (REET) 1	1,485	924	422	-	448	113	3,392
Real Estate Excise Tax (REET) 2	3,507	2,424	1,633	2,054	1,464	1,275	12,357
Street & Pedestrian Safety Levy	2,391	2,885	2,733	2,760	2,788	2,816	16,373
Transportation Impact Fees	5,912	4,767	1,000	702	1,298	472	14,151
King County Park Levy	300	-	-	-	-	-	300
Walkable Kirkland	400	400	-	-	-	-	800
Utility Rates	410	500	500	191	486	60	2,147
Utility Reserves	207	-	-	-	-	-	207
Solid Waste Street Preservation	300	300	300	300	300	300	1,800
REET 2 Reserve	3,011	2,480	480	1,893	215	695	8,774
REET 1 Reserve	135	-	-	-	-	-	135
Carryover PY Funds	168	659	-	-	-	-	827
Debt	14,518	3,594	658	911	-	-	19,681
External Sources	6,397	8,022	2,237	3,657	4,528	4,042	28,883
Subtotal Transportation	40,036	28,281	11,093	13,611	12,683	10,890	116,594
Parks							
Real Estate Excise Tax 1	1,113	435	160	160	833	833	3,534
Park Impact Fees	3,291	4,750	1,050	1,150	1,750	1,750	13,741
Parks Levy	1,000	823	250	250	250	250	2,823
King County Park Levy	-	300	300	300	300	300	1,500
REET 1 Reserve	509	-	-	-	-	-	509
Park Facilities Sinking Fund	162	151	162	169	146	160	950
Carryover PY Funds	2,727	-	-	-	-	-	2,727
Other Reserves	1,866	-	-	-	-	-	1,866
External Sources	325	-	-	-	-	-	325
Subtotal Parks	10,993	6,459	1,922	2,029	3,279	3,293	27,975
General Government: Technology, Facilities & Public Safety							
General Fund Contributions for:							
Public Sfty. Equip. Sinking Fund	997	345	177	131	909	1,071	3,630
Technology Equip. Sinking Fund	452	625	456	590	483	824	3,430
Utility Rates	256	256	256	256	256	256	1,536
Facilities Life Cycle Reserve	1,009	522	279	150	347	1,082	3,389
Maj Sys Replacement Rsv	250	-	-	-	-	-	250
REET 1 Reserves	2,270	-	-	-	-	-	2,270
General Fund Cash	1,244	174	114	174	114	186	2,006
Carryover PY Funds	377	787	-	-	-	52	1,215
Debt	5,563	-	-	-	-	-	5,563
REET 1	5,488	-	-	-	-	-	5,488
Other General Government Reserves	525	-	-	-	-	-	525
Subtotal General Government	18,430	2,709	1,282	1,301	2,109	3,471	29,302
Utilities							
Utility Connection Charges	865	865	865	865	865	865	5,190
Utility Rates - Surface Water	2,041	2,120	2,139	2,204	2,270	2,339	13,113
Utility Rates - Water/Sewer	3,992	4,941	5,165	5,329	5,583	5,850	30,860
Reserves	3,673	2,542	1,450	50	1,450	50	9,215
External Sources	4,552	1,513	1,111	769	-	-	7,945
Subtotal Utilities	15,123	11,981	10,730	9,217	10,168	9,104	66,323
Total Revenues	84,582	49,430	25,027	26,158	28,239	26,758	240,194

* Totals in table may differ to previous Total Updated Program table due to rounding.

TRANSPORTATION PROJECTS

Funded Projects:

Project Number	Project Title	Prior Year(s)	2019	2020	2021	2022	2023	2024	2019-2024 Total	Funding Sources							
										Current Revenue	Street Levy	Impact Fees	Walkable Kirkland	Reserve	Debt	Secured External	Unsecured External
STC 00600	Annual Street Preservation Program		957,100	1,432,400	1,750,000	1,750,000	1,750,000	1,750,000	9,389,500	9,389,500							
STC 00603	Street Levy Street Preservation		1,324,700	1,870,200	2,433,000	2,460,000	2,488,000	2,516,000	13,091,900		13,091,900						
STC 00604	Central Way Street Preservation		242,700						242,700	58,700						184,000	
STC 00605	Totem Lake Blvd Gateway & Roadway Repair	2,120,000	3,390,000	1,320,000					4,710,000			845,000		845,000		3,020,000	
STC 00606	6th Street South Street Preservation	280,000	1,650,000						1,650,000	1,070,000	580,000						
STC 00607	98th Avenue NE Street Preservation		337,600	1,795,500					2,133,100	601,600	900,500					631,000	
STC 05912	124th Ave NE Roadway Improvements (North Section) ROW			1,414,700	802,000				2,216,700	102,700		314,000				1,800,000	
STC 05913	124th Ave NE Roadway Improvements (North Section) Construction				760,000	3,455,000	1,185,000		5,400,000	493,000		1,015,000				437,000	3,455,000
STC 08000	Annual Striping Program		668,000	700,000	500,000	500,000	500,000	500,000	3,368,000	3,200,000				168,000			
STC 08313	100th Avenue NE Roadway Improvements (North Section)		2,679,700	1,050,800					3,730,500	204,500		2,170,000			100,000	1,256,000	
STC 08314	100th Avenue NE Roadway Improvements (Mid-North Section)		3,710,400	1,858,900					5,569,300	419,300		2,431,900			107,000	2,611,100	
STC 08900	Juanita Drive Intersection and Safety Improvements		750,000	3,186,700	1,850,000	1,018,500			6,805,200	824,000		456,000		20,000	4,755,200	750,000	
STC 10300	NE 128th Street Multimodal Corridor Study			211,000					211,000	211,000							
STC 10400	General Right of Way Acquisition			2,000,000					2,000,000	2,000,000				2,000,000			
STC 99990	Regional Inter-Agency Coordination		82,000	82,000	82,000	82,000	82,000	82,000	492,000	410,000				82,000			
NMC 00610	Street Levy-Safe School Walk Routes				150,000	150,000	150,000	150,000	600,000		600,000						
NMC 00620	Street Levy-Pedestrian Safety		150,000	150,000	150,000	150,000	150,000	150,000	900,000		900,000						
NMC 00621	Neighborhood Safety Program Improvements	800,000	200,000	200,000					400,000				400,000				
NMC 01204	Central Way Crosswalk Upgrade		50,000	50,000					100,000	100,000							
NMC 05700	Annual Sidewalk Maintenance Program		211,000	211,000	200,000	200,000	200,000	200,000	1,222,000	994,000				228,000			
NMC 05701	Grant Funded Sidewalk Maintenance Program		537,000	1,543,500					2,080,500							537,000	1,543,500
NMC 07100	NE 132nd Street Sidewalk Improvement	300,000	263,800						263,800	63,800						200,000	
NMC 08100	CKC to Redmond Central Connector	1,500,000	1,461,100	600,300					2,061,400	907,400						1,154,000	
NMC 08610	NE 124th St/124th Ave NE Ped Bridge Design & Construction	11,810,000	5,900,700						5,900,700	1,357,600					4,543,100		
NMC 08700	Citywide School Walk Route Enhancements	3,133,200	1,339,900	422,000	300,000	300,000	300,000	300,000	2,961,900	709,900		870,000	130,000	680,000			572,000
NMC 08710	North Kirkland/JFK School Walk Route Enhancements		474,800	527,500					1,002,300	39,400	300,000		100,000				562,900
NMC 09010	Juanita Drive Multi-Modal (On-Street) Improvements			536,000					536,000	111,000				225,000	200,000		
NMC 09500	124th Avenue NE Sidewalk Improvements	1,680,000	400,000						400,000								
NMC 09800	Kirkland Ave Sidewalk Improvements				400,000	200,000			600,000	345,000				255,000			
NMC 10200	NE 120th Street Sidewalk		400,000						400,000	400,000						400,000	
NMC 10900	Citywide Trail Connections (Non-CKC)			290,100					290,100	15,100							
NMC 10902	Lake Front Promenade Design Study			79,100					79,100	79,100							
NMC 11010	Citywide Accessibility Improvements	100,000	105,500	105,500	100,000	100,000	100,000	100,000	611,000	411,000			100,000				
NMC 11300	Citywide Greenways Networks			263,800	250,000	250,000	250,000	250,000	1,263,800	363,800		625,000		275,000			
NMC 11302	Citywide Greenways Network Project-128th Avenue NE	400,000	888,300						888,300	126,300							
NMC 11500	CKC Emergent Projects Opportunity Fund	300,000	105,500						105,500	105,500						692,000	
NMC 12400	Totem Lake Public Improvements Phase II		7,500,000						7,500,000					1,485,000	6,015,000		
TRC 09300	NE 132nd St/Juanita H.S. Access Rd Intersection Improvements	1,260,000	537,400						537,400	137,400		400,000					
TRC 09400	NE 132nd St/108th Avenue NE Intersect'n Imp		527,500	759,600					1,287,100	67,100		61,000			659,000	500,000	
TRC 11600	Annual Signal Maintenance Program	450,000	211,000	211,000	200,000	200,000	200,000	200,000	1,222,000	766,000					456,000		
TRC 11700	Citywide Traffic Management Safety Improvements	300,000	105,500	105,500	100,000	100,000	100,000	100,000	611,000	311,000					300,000		
TRC 11702	Vision Zero Safety Improvement	200,000	52,800	52,800	50,000	50,000	50,000	50,000	305,600	205,600					100,000		
TRC 11703	Neighborhood Traffic Control	100,000		52,800					152,800	86,800					66,000		
TRC 11705	School Zone Beacon & Signage Improvements		52,800						52,800	2,800					50,000		
TRC 11200	Kirkland Intelligent Transportation System Phase 3	450,000		474,800	850,000	450,000	450,000	450,000	2,674,800	677,200		796,000		129,000			1,072,600
TRC 12400	116th Avenue NE/NE 124th Street Intersection Improvements		550,000	1,208,000	565,000				2,323,000	823,000						1,500,000	
TRC 13500	100th Avenue NE/Simonds Road Intersection Imps		814,800	439,600					1,254,400	400,400		854,000					
TRC 13600	100th Avenue NE/145th Street Intersection Imps		858,800	434,700					1,293,500	394,500		899,000					
TRC 13700	Kirkland Avenue/Lake Street Intersection Improvements		546,100	1,131,400					1,677,500	177,500					1,500,000		
TRC 13900	NE 85th St/132nd Ave NE Dual Left Turn Lanes			1,508,700					1,508,700	1,508,700		1,258,700			250,000		
PTC 00400	108th Avenue NE Transit Queue Jump - Phase I					903,000	2,099,000	1,873,300	4,875,300					870,300			4,005,000
PTC 00500	108th Avenue NE Transit Queue Jump - Phase II					1,042,000	2,429,300	2,168,800	5,640,100					1,023,100			4,617,000
Total Funded Transportation Projects		25,183,200	40,036,500	28,279,900	11,092,000	13,610,500	12,683,300	10,890,100	116,592,300	26,762,500	16,372,400	14,150,600	800,000	9,943,400	19,680,400	13,055,000	15,828,000

Notes
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Unfunded Projects in the Capital Facilities Plan Years 7-20

Project Number	Project Title	Total
STC 06300	120th Avenue NE Roadway Improvements	4,500,000
STC 07200	NE 120th Street Roadway Improvements (West Section)	15,780,600
STC 07700	NE 132nd St Rdwy Imprv.-Phase I (West Section)	1,739,000
STC 07800	NE 132nd St Rdwy Imprv-Phase II (Mid Section)	408,000
STC 07900	NE 132nd St Rdwy Imprv-Phase III (East Section)	1,444,000
STC 08100	Totem Lake Area Development Opportunity Program	500,000
STC 08315	100th Avenue NE Roadway Improvements (Mid-South Section)	5,530,000
STC 08316	100th Avenue NE Roadway Improvements (South Section)	3,619,000
STC 09400	Holmes Point Dr NE Road Embankment Stabilization Location 1	246,000
STC 09500	Holmes Point Dr NE Road Embankment Stabilization Location 2	412,000
STC 09600	Holmes Point Dr NE Road Embankment Stabilization Location 3	503,000
STC 09700	Holmes Point Dr NE Road Embankment Stabilization Location 4	551,000
STC 09800	Holmes Point Dr NE Road Embankment Stabilization Location 5	232,000
STC 09900	Champagne Pt Road NE Embankment Stabilization	563,000
STC 10000	62nd Ave NE Road Embankment Stabilization	823,000
STC 10100	114th Ave NE Road Reconstruction	1,900,000
STC 10200	90th Ave NE Road Surface Water Drainage Repair	420,000
NMC 01299	Crosswalk Upgrade Program	4,100,000
NMC 08630	CKC Roadway Crossings	3,370,100
NMC 09011	Juanita Drive Bicycle and Pedestrian Improvements	10,650,000
NMC 11100	108th Avenue NE Bicycle Lanes Upgrade	845,000
NMC 11399	Citywide Greenway Network	4,450,000
NMC 11700	On-Street Bicycle Network Phase I	1,120,000
NMC 88881	On-street Bicycle Network	3,280,000
NMC 99991	Sidewalk Completion Program	6,096,800
PTC 00200	Public Transit Speed and Reliability Improvements	500,000
PTC 00300	Public Transit Passenger Environment Improvements	500,000
PTC 00400	108th Avenue NE Transit Queue Jump - Phase I	4,875,000
PTC 00500	108th Avenue NE Transit Queue Jump - Phase II	5,640,000
TRC 09500	NE 132nd St/Fire Stn Access Dr Intersect'n Imp	480,000
TRC 09600	NE 132nd St/124th Ave NE Intersect'n Imp	7,400,000
TRC 09700	NE 132nd St/132nd Ave NE Intersect'n Imp	1,150,000
TRC 12500	Kirkland ITS Implementation Phase 4	2,620,000
TRC 12800	6th Street S/5th Place/CKC Transit Signal Priority	2,600,000
TRC 12900	NE 53rd Street Intersection Improvements	4,345,000
TRC 13000	NE 145th Street/Juanita-Woodinville Way Intersection Imps	2,100,000
TRC 13100	NE 80th Street/120th Avenue NE Intersection Improvements	1,700,000
TRC 13200	100th Avenue NE/132nd Street Intersection Improvements	1,647,000
TRC 13300	100th Avenue NE/Juanita-Woodinville Way Intersection Imps	2,161,000
TRC 13400	100th Avenue NE/137th Street Intersection Improvements	1,475,000
TRC 13800	NE 100th Street/132nd Ave NE Intersection Improvements	1,743,000
Capacity Projects Subtotal		114,018,500
STC 00600	Annual Street Preservation Program	22,750,000
STC 00603	Street Levy Street Preservation	31,107,000
STC 08000	Annual Striping Program	500,000
STC 99990	Regional Inter-Agency Coordination	820,000
NMC 00621	Neighborhood Safety Program Improvements	3,000,000
NMC 05700	Annual Sidewalk Maintenance Program	2,600,000
TRC 11600	Annual Signal Maintenance Program	2,600,000
TRC 11700	Citywide Traffic Management Safety Improvements	1,400,000
TRC 11702	Vision Zero Safety Improvement	650,000
TRC 11703	Neighborhood Traffic Control	325,000
Non-Capacity Projects Subtotal		65,752,000
Total Transportation Master Plan Projects Yrs 7-20		179,770,500

Unfunded Projects in the Capital Facilities Plan Years 7-20 and Transportation Improvement Plan

NMC 02412	Cross Kirkland Corridor Opportunity Fund	500,000
NMC 03100	Crestwoods Park/CKC Corridor Ped/Bike Facility	2,505,000
NMC08000	Juanita-Kingsgate Pedestrian Bridge at I-405	4,500,000
NMC 10600	Citywide CKC Connection	360,000
NMC10700	CKC to Downtown Surface Connection	2,000,000
Capital Facilities Projects Not in TMP Subtotal		9,865,000
Total Capital Facilities Plan Projects Yrs 7-20		189,635,500

Unfunded Transportation Improvement Plan/External Funding Candidates

Project Number	Project Title	Total
STC 05600	132nd Avenue NE Roadway Improvements	25,170,000
STC 06100	119th Avenue NE Roadway Extension	5,640,000
STC 06200	NE 130th Street Roadway Improvements	10,000,000
STC 06400	124th Avenue NE Roadway Extension	30,349,000
STC 07300	120th Avenue NE Roadway Extension	16,392,000
STC 08600	Finn Hill Emergency Vehicle Access Connection	900,000
NMC 03000	NE 90th Street/I-405 Pedestrian/Bicycle Overpass	3,740,700
NMC 03100	Crestwoods Park/CKC Corridor Ped/Bike Facility	2,505,000
NMC 03200	93rd Avenue Sidewalk	1,047,900
NMC 04300	NE 126th St Nonmotorized Facilities	4,277,200
NMC 04600	18th Avenue SW Sidewalk	2,255,000
NMC 05000	NE 80th Street Sidewalk	859,700
NMC 05400	13th Avenue Sidewalk	446,700
NMC 05500	122nd Ave NE Sidewalk	866,700
NMC 05800	111th Avenue Non-Motorized/Emergency Access Connection	2,000,000
NMC 06200	19th Avenue Sidewalk	814,200
NMC 07400	90th Ave NE Sidewalk	353,400
NMC 08000	Juanita-Kingsgate Pedestrian Bridge at I405	4,500,000
NMC 08600	Cross Kirkland Corridor Non-motorized Improvements	65,742,000
NMC 10600	Citywide CKC Connections	360,000
NMC 10700	CKC to Downtown Surface Connection	2,000,000
TRC 06700	Kirkland Way/CKC Bridge Abutment/Intersection Imprv	6,917,000
TRC 11400	Slater Avenue NE Traffic Calming - Phase I	247,000
TRC 11704	NE 68th Street Intersection Improvements/Access Management	4,375,000
TRC 12300	Slater Avenue NE (132nd Avenue NE)/NE 124th Street	2,124,000
Subtotal Unfunded Transportation Improvement Plan/External Funding Candidates		193,882,500
Grand Total Unfunded Transportation Projects		383,518,000

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= Projects to be funded with development-related revenues

^ = Future, unfunded portion of projects funded in years 1-6

~ = Annual Programs with Candidate projects

Potential Non-Motorized Projects Under Placeholders; Not Included in Totals

Project Number	Project Title	Total
NMC 88881 On-Street Bicycle Network Candidate Projects:		
NMC 00100	116th Ave NE (So. Sect.) Non-Motorz'd Facil-Phase II	3,378,000
NMC 03600	NE 100th Street Bike lane	1,644,300
NMC 99991 Sidewalk Completion Program Candidate Projects:		
NMC 02600	NE 90th Street Sidewalk (Phase II)	706,200
NMC 03700	130th Avenue NE Sidewalk	833,600
NMC 04500	NE 95th Street Sidewalk (Highlands)	571,500
NMC 04700	116th Avenue NE Sidewalk (South Rose Hill)	840,000
NMC 04800	NE 60th Street Sidewalk	500,000
NMC 04900	112th Ave NE Sidewalk	527,600
NMC 06100	NE 104th Street Sidewalk	1,085,000
NMC 06300	Kirkland Way Sidewalk	414,500
NMC 07200	NE 132nd Street Sidewalk at Finn Hill Middle School	840,000
NMC 07500	84th Ave NE Sidewalk	4,052,800
NMC 07600	NE 140th St Sidewalk - Muir Elem Walk Rt Enhan. Phase 1	1,131,000
NMC 07700	NE 140th St Sidewalk - Keller Elem Walk Rt Enhan. - N	1,185,000
NMC 07800	NE 140th St Sidewalk - Keller Elem Walk Rt Enhan. - S	747,000
NMC 07900	NE 140th St Sidewalk - Muir Elem Walk Rt Enhan. Phase 2	648,000
NMC 08800	NE 124th Street Sidewalk	376,000
NMC 09700	132nd NE Sidewalk	732,000
NMC 10100	7th Avenue Sidewalk	208,000
NMC 10300	120th Avenue NE Sidewalk	556,000
NMC 10400	NE 122nd Place/NE 123rd Street Sidewalk	1,294,000
NMC 10500	120th Avenue NE Sidewalk	812,000

SURFACE WATER MANAGEMENT UTILITY PROJECTS

Funded Projects:

Project Number	Project Title	Prior Year(s)	2019	2020	2021	2022	2023	2024	2019-2024 Total	Funding Source				
										Current Revenue	Reserve	Secured External	Unsecured External	
SDC 04700	Annual Replacement of Aging/Failing Infrastructure		200,000	200,000	200,000	200,000	200,000	200,000	1,200,000	1,200,000				
SDC 04900	Forbes Creek / 108th Avenue NE Fish Passage Improvements						595,100	728,000	1,323,100	1,323,100				
SDC 05300	Forbes Creek / Coors Pond Channel Grade Controls	260,200					440,000	600,000	1,040,000	1,040,000				
<i>SDC 05400</i>	<i>Forbes Creek / Cross Kirkland Corridor Fish Passage Improvements</i>			316,500	880,000	500,000			1,696,500	1,680,000	16,500			
SDC 06300	Everest Creek - Slater Avenue at Alexander Street						430,000	520,000	950,000	950,000				
<i>SDC 07600</i>	<i>NE 141st Street / 111th Avenue NE Culvert Headwall Repair</i>	941,500	905,000						905,000	610,000	295,000			
<i>SDC 08100</i>	<i>Neighborhood Drainage Assistance Program (NDA)</i>		177,800		50,000		50,000		277,800	225,000	52,800			
SDC 08400	Market Street Storm Main Rehabilitation	650,400	535,000						535,000	535,000				
<i>SDC 08800</i>	<i>Comfort Inn Pond Modifications</i>	1,470,100	465,600						465,600	81,300	384,300			
<i>SDC 08900</i>	<i>NE 142nd Street Surface Water Drainage Improvements</i>	194,000	263,800	325,000					588,800	50,000	13,800	525,000		
SDC 09000	Goat Hill Drainage Ditch Conveyance & Channel Stabilization				359,000	494,000			853,000	853,000				
SDC 09200	Juanita Creek Culvert at NE 137th Street	685,100			350,000	1,010,000	144,900		1,504,900	1,504,900				
SDC 09300	Pleasant Bay Apartments Line Replacement	322,000	355,000						355,000	355,000				
SDC 10000	Brookhaven Pond Modifications						410,000	290,000	700,000	700,000				
<i>SDC 10500</i>	<i>Property Acquisition Opportunity Fund</i>	150,000	189,225	50,000	50,000	50,000	50,000	50,000	439,225		300,000	139,225		
<i>SDC 10700</i>	<i>132nd Square Park Surface Water Retrofit Facility</i>	560,000	3,165,000	1,188,000					4,353,000			4,353,000		
<i>SDC 10800</i>	<i>Maintenance Center Storm Water Pollution Prevention</i>	600,000	440,000						440,000		440,000			
SDC 12100	Kirkland Advanced Mitigation Project			1,000,000	300,000				1,300,000	1,300,000				
<i>SDC 12200</i>	<i>Regional Detention Phase I - Study</i>			260,000					260,000	260,000				
<i>SDC 12300</i>	<i>Lake Street Stormwater Repair</i>			284,900					284,900	160,000	124,900			
<i>SDC 12411</i>	<i>Cedar Creek Fish Passage/Culvert Replacement (100th Ave NE)</i>	300,000	89,400	2,231,600					2,321,000	284,700	2,036,300			
SDC 12500	NE 120th Street Water Quality Treatment		738,000						738,000		184,500	553,500		
SDC 12600	Spinney Homestead Park Regional Stormwater Facility-Design		471,000						471,000			471,000		
Total Funded Surface Water Management Utility Projects			6,133,300	7,994,825	5,856,000	2,189,000	2,254,000	2,320,000	2,388,000	23,001,825	13,112,000	3,848,100	6,041,725	0

Notes

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SURFACE WATER MANAGEMENT UTILITY PROJECTS

Unfunded Projects:

Project Number	Project Title	Total
SDC 04500	Carillon Woods Erosion Control Measures	600,000
SDC 04610	Regional Detention in Forbes Creek Basin Phase I	2,000,000
SDC 04699	Regional Detention in Forbes and Juanita Creek Basins	8,600,000
SDC 05100	Forbes Creek/King County Metro Access Road Culvert Enhancement	1,400,000
SDC 06100	Everest Park Stream Channel/Riparian Enhancements	1,200,000
SDC 08501	Cross Kirkland Corridor Water Quality Retrofit	1,000,000
SDC 09400	NE 114th Place Stormline Replacement	405,000
SDC 09700	Champagne Creek Stabilization	890,000
SDC 10100	Holmes Point Pipe Replacement at Champagne Creek Basin	260,000
SDC 10200	Juanita Drive Culvert Replacement	750,000
SDC 10300	Lakeview Drive Conveyance Modification	2,800,000
SDC 11200	112th Avenue NE Pipe Repair	60,000
SDC 11300	113th Avenue NE Pipe Repair	120,000
SDC 11400	124th Avenue NE Pipe Repair	160,000
SDC 11500	Weaver's Pond Pipe Replacement	180,000
SDC 11600	NE 140th Street Pipe Replacement	100,000
SDC 11700	111th Avenue NE Pipe Repair	400,000
SDC 11800	Champagne Point Drive NE Pipe Repair	270,000
SDC 11900	NE 58th Street Pipe Repair	280,000
SDC 12000	Kingsgate Park Pipe Outfall Improvements	80,000
Total Unfunded Surface Water Management Utility Projects		21,555,000
<i>Funding Available from Annual Programs for Candidate Projects</i>		<i>1,200,000</i>
Net Unfunded Surface Water Management Utility Projects		20,355,000

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City of Kirkland
2019-2024 Revised Capital Improvement Program

WATER/SEWER UTILITY PROJECTS

Funded Projects:

Project Number	Project Title	Prior Year(s)	2019	2020	2021	2022	2023	2024	2019-2024 Total	Funding Source			
										Current Revenue	Reserve	Secured External	Unsecured External
WAC 05200	108th Avenue NE Watermain Replacement			1,023,800	809,600				1,833,400	1,780,000	53,400		
WAC 10200	104th Avenue NE Watermain Replacement		594,000						594,000	563,000	31,000		
WAC 12900	South Reservoir Seismic & Recoating Construction				2,363,500	1,636,500			4,000,000	2,120,000			1,880,000
WAC 12910	South Reservoir Seismic & Recoating Pre-Design		52,800						52,800	27,000	2,800		23,000
WAC 13300	Kirkland Avenue Watermain Replacement		1,582,500						1,582,500	1,500,000	82,500		
WAC 13400	5th Avenue S / 8th Street S Watermain Replacement				1,061,000	689,000			1,750,000	1,290,400	459,600		
WAC 15300	3rd Street Watermain Improvement	757,000	446,300						446,300	118,000	328,300		
WAC 15700	8th Avenue W Watermain Improvement				891,900	234,100			1,126,000	655,900	470,100		
WAC 15800	NE 112th Street Watermain Improvement	365,000	177,200						177,200	168,000	9,200		
WAC 15900	NE 113th Place Watermain Improvement	373,000	181,500						181,500	172,000	9,500		
WAC 16000	126th Avenue NE Watermain Improvement						700,000	800,000	1,500,000	1,500,000			
WAC 16400	NE 116th Place Watermain Replacement				190,000				190,000	139,700	50,300		
WAC 16700	11th Avenue Watermain Replacement				420,000				420,000		420,000		
WAC 16800	11th Place Watermain Replacement				605,000				605,000	605,000			
WAC 88880	Annual Watermain Replacement Program							269,700	269,700	269,700			
WAC 99990	Annual Water Pump Station/System Upgrade Program							269,800	269,800	269,800			
SSC 00600	Trend Lift Station Elimination		496,900						496,900		496,900		
SSC 05200	108th Avenue NE Sewermain Replacement	711,400	1,470,700	5,101,600					6,572,300	5,129,600	1,442,700		
SSC 06200	NE 108th Street Sewermain Replacement					1,403,400	4,042,800	1,831,100	7,277,300	5,877,300	1,400,000		
SSC 07200	Kirkland Avenue Sewermain Replacement	285,000	2,125,800						2,125,800	2,015,000	110,800		
SSC 07710	West of Market Sewermain Replacement Phase I				2,200,000	3,000,000	2,500,000	2,500,000	10,200,000	10,200,000			
SSC 88880	Annual Sanitary Pipeline Replacement Program					302,600	522,200	824,800	824,800	824,800			
SSC 99990	Annual Sanitary Pump Station/System Upgrade Program					302,600	522,200	824,800	824,800	824,800			
Total Funded Water/Sewer Utility Projects		2,491,400	7,127,700	6,125,400	8,541,000	6,963,000	7,848,000	6,715,000	43,320,100	36,050,000	5,367,100	-	1,903,000

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Unfunded Projects:

Project Number	Project Title	Total
WAC 05700	116th Avenue NE Watermain Replacement	2,869,000
WAC 06700	North Reservoir Pump Replacement	644,000
WAC 09600	NE 83rd Street Watermain Replacement	477,000
WAC 09800	126th Ave NE/NE 83rd & 84th St/128th Ave NE Watermain Replacement	1,261,000
WAC 10300	NE 113th Place/106th Ave NE Watermain Replacement	885,000
WAC 10400	111th Ave NE/NE 62nd St-NE 64th St Watermain Replacement	1,571,000
WAC 10800	109th Ave NE/NE 58th St Watermain Replacement	532,000
WAC 10900	112th Ave NE Watermain Replacement	1,242,000
WAC 11100	NE 45th St And 110th/111th Ave NE Watermain Replacement	1,371,000
WAC 11300	116th Ave NE/NE 70th-NE 80th St Watermain Replacement	2,336,000
WAC 11800	112th-114th Avenue NE/NE 67th-68th Street Watermain Replacement	3,531,000
WAC 11900	109th Ave NE/111th Way NE Watermain Replacement	2,421,000
WAC 12000	111th Avenue Watermain Replacement	195,000
WAC 12200	116th Avenue NE/NE 100th Street Watermain Replacement	1,584,000
WAC 12300	NE 91st Street Watermain Replacement	479,000
WAC 12400	NE 97th Street Watermain Replacement	722,000
WAC 12600	North Reservoir Outlet Meter Addition	80,000
WAC 12700	650 Booster Pump Station	1,686,000
WAC 12800	106th Ave NE-110th Ave NE/NE 116th St-NE 120th St Watermain Replacement	2,422,000
WAC 13000	11th Place Watermain Replacement	359,000
WAC 13100	Supply Station #1 Improvements	68,000
WAC 13200	7th Avenue/Central Avenue Watermain Replacement	955,000
WAC 13500	NE 75th Street Watermain Replacement	750,000
WAC 13600	NE 74th Street Watermain Replacement	206,000
WAC 13700	NE 73rd Street Watermain Replacement	696,000
WAC 13800	NE 72nd St/130th Ave NE Watermain Replacement	1,553,000
WAC 14500	6th Street South Watermain Replacement	618,000
WAC 14600	6th Street/Kirkland Way Watermain Replacement	731,000
WAC 14700	106th Avenue NE Watermain Replacement	697,000
WAC 14900	Lake Washington Blvd Watermain Replacement	690,000
WAC 16500	3rd Street Watermain Replacement - Phase 2	541,000
SSC 06800	124th Avenue NE Sewermain Replacement	1,384,000
SSC 07799	West Of Market Sewermain Replacement Phase 2	10,861,000
SSC 08000	20th Avenue Sewermain Replacement	855,000
SSC 08300	111th Avenue NE Sewer Main Rehabilitation	764,000
SSC 08400	Reclaimed Water (Purple Pipe) Opportunity Fund	5,252,000
Subtotal Unfunded Water/Sewer Utility Projects		53,288,000
Funding Available from Annual Programs for Candidate Projects		2,189,100
Net Unfunded Water/Sewer Utility Projects		51,098,900

Notes

Italics = Modification in timing and/or cost

Unfunded Projects:

Project Number	Project Title	Total
PKC 05610	Forbes Lake Park Trail Improvements Phase II	6,000,000
PKC 09510	Heritage Park Development - Phase III & IV	4,000,000
PKC 09700	Reservoir Park Renovation Plan	50,000
PKC 10800	McAuliffe Park Development	7,000,000
PKC 11300	Spinney Homestead Park Renovation Plan	60,000
PKC 11400	Mark Twain Park Renovation Plan	75,000
PKC 11500	Terrace Park Renovation Plan	60,000
PKC 11600	Lee Johnson Field Artificial Turf Installation	5,000,000
PKC 11902	Juanita Beach Park Development Phase II	10,000,000
PKC 12210	Community Recreation Facility Construction	75,000,000
PKC 12400	Snyder's Corner Park Site Master Plan	100,000
PKC 12600	Watershed Park Master Plan	100,000
PKC 12700	Kiwanis Park Master Plan	75,000
PKC 12800	Yarrow Bay Wetlands Master Plan	200,000
PKC 12900	Heronfield Wetlands Master Planning & Development	125,000
PKC 13100	Park & Open Space Acquisition Program	10,000,000
PKC 13310	Dock & Shoreline Renovations	3,000,000
PKC 13510	Juanita Heights Park Master Plan	150,000
PKC 13600	Kingsgate Park Master Planning and Park Development	150,000
PKC 13800	Everest Park Restroom/Storage Building Replacement	1,800,000
PKC 13903	Totem Lake Park Development Phase II	4,000,000
PKC 13904	Totem Lake Park Development Phase III	3,000,000
PKC 14100	South Norway Hill Park Site Master Plan	150,000
PKC 14300	Marsh Park Restroom Replacement	85,000
PKC 14400	Cedar View Park Improvement Plan	50,000
PKC 14500	Environmental Education Center	200,000
PKC 14800	Forbes House Renovation & Historic Preservation Plan	50,000
PKC 14900	Taylor Playfields-Former Houghton Landfill Site Master Plan	300,000
PKC 15000	North Kirkland Community Center Renovation & Expansion Plan	75,000
PKC 15300	Synthetic Turf Playfields Master Plan	135,000
Total Unfunded Parks Projects		130,990,000

Notes

Italics = Modification in timing and/or cost

" = Moved from funded status to unfunded status

~ = Partially funded project

2019-2024 Revised Capital Improvement Program

PUBLIC SAFETY PROJECTS

Funded Projects:

Project Number	Project Title	Prior Year(s)	2019	2020	2021	2022	2023	2024	2019-2024 Total	Funding Source			
										Reserve	Debt	External Source	
FIRE													
PSC 06200	Defibrillator Unit Replacement			143,100					143,100	143,100			
PSC 06300	Air Fill Station Replacement							86,200	86,200	86,200			
PSC 06600	Thermal Imaging Cameras		93,400						93,400	93,400			
PSC 07100	Self Contained Breathing Apparatus (SCBA)		135,400				767,100	115,100	1,017,600	1,017,600			
PSC 07600	Personal Protective Equipment		614,500	6,700	6,800	6,900	7,100	678,500	1,320,500	1,320,500			
PSC 08000	Emergency Generators	120,000		60,000		60,000			120,000	120,000			
PSC 08100	Fire Station 26 Training Prop		290,000						290,000	290,000			
PSC 08200	Water Rescue Craft Storage & Lift		87,900						87,900	87,900			
PSC 20000	Fire Equipment Replacement		31,700	8,000	43,000	8,300	28,600	27,000	146,600	146,600			
POLICE													
PSC 10000	Police Equipment Replacement		121,800	186,900	127,400	115,800	105,800	166,800	824,500	824,500			
FACILITIES													
PSC 30021	Fire Station 24 Land Acquisition	4,437,530	1,300,000						1,300,000	1,300,000			
PSC 30022	Fire Station 24 Replacement	10,133,300	6,537,600						6,537,600	6,537,600			
PSC 30030	Fire Station 27 Land Acquisition		5,562,619						5,562,619		5,562,619		
Total Funded Public Safety Projects			14,690,830	14,774,919	404,700	177,200	191,000	908,600	1,073,600	17,530,019	11,967,400	5,562,619	-

Notes

Italics = Modification in timing and/or cost (see Project Modification/Deletion Schedule for more detail)

Bold = New projects

+ = Moved from unfunded status to funded status

Public Safety Unfunded Projects:

Project Number	Project Title	Total
FIRE		
	No Unfunded Projects	
POLICE		
	No Unfunded Projects	
FACILITIES		
PSC 30030	Fire Station 27 Land Acquisition	4,700,000
PSC 30040	Fire Station 21 Expansion & Remodel	4,562,000
PSC 30050	Fire Station 22 Expansion & Remodel	7,452,000
PSC 30060	Fire Station 26 Expansion & Remodel	8,040,000
PSC 30070	Fire Station 27 Replacement	15,100,000
Total Unfunded Public Safety Projects		39,854,000

Notes

Italics = Modification in timing and/or cost (see Project Modification/Deletion Schedule for more detail)

" = Moved from funded status to unfunded status

City of Kildand
2019-2024 Revised Capital Improvement Program

GENERAL GOVERNMENT PROJECTS - Technology

Funded Projects:

Project Number	Project Title	Prior Year Funding	2019	2020	2021	2022	2023	2024	2019-2024 Total	Funding Source	
										Reserves	Utility Funds
ITC 00304 +	New City Website and Platform		250,000						250,000	250,000	-
ITC 01003	Police Evidence System Replacement		162,000						162,000	162,000	-
<i>ITC 10000</i>	<i>Network Server and Storage Replacements</i>		73,500					373,500	447,000	447,000	-
ITC 11000	Network Infrastructure		114,000	1,006,600	49,100	117,900	83,000	202,800	1,573,400	1,573,400	-
<i>ITC 12000</i>	<i>Cloud Computing Services for Servers & Storage</i>		581,700						581,700	496,700	85,000
	<i>Cloud Computing Services - Operations</i>			330,700	330,700	330,700	330,700	330,700	1,653,500	1,228,500	425,000
ITC 13000	Network Phone Systems		125,300	95,300	95,300	95,300	95,300	95,300	601,800	601,800	-
ITC 14000	Network Security		75,000	30,000	30,000	75,000	30,000	30,000	270,000	270,000	-
ITC 20000	Geographic Information Systems		285,000	285,000	285,000	285,000	285,000	285,000	1,710,000	684,000	1,026,000
ITC 50000	Copier Replacements		34,000	34,600	36,000	55,900	29,000		189,500	189,500	-
Total Funded General Government Projects - Technology			1,700,500	1,782,200	826,100	959,800	853,000	1,317,300	7,438,900	5,902,900	1,536,000

Notes

Italics = Modification in timing and/or cost (see Project Modification/Deletion Schedule for more detail)

Bold = New projects

+ = Moved from unfunded status to funded status

Technology Unfunded Projects:

Project Number	Project Title	Total
ITC 00201	GIS Community Information Portal	100,000
ITC 00305	"Explore Kirkland" Redesign	75,000
ITC 00403	Tyler Content Management in EnerGov Implementation	21,000
ITC 00603	Information Technology Internal Process Improvement	251,200
ITC 00701	Fleet Management Systems Replacement	110,000
ITC 00906	Television Media Equipment Upgrade	210,000
ITC 01001	CodeSmart Court Applications Replacement Evaluation	13,600
ITC 01002	License Plate Reader for Patrol Cars	120,000
ITC 01101	WiFi in the Parks Expansion	400,000
ITC 01301	Parking Improvement Solutions Support	75,000
ITC 01401	New Technology Pilot Programs	78,800
ITC 01501	Enterprise Analytics	977,400
Total Unfunded General Government Projects - Technology		2,432,000

Notes

Italics = Modification in timing and/or cost

Bold= New projects

2019-2024 Revised Capital Improvement Program

GENERAL GOVERNMENT PROJECTS - Facilities

Funded Projects:

Facilities Sinking Fund										Funding Source			
Project Number	Project Title	Prior Year(s)	2019	2020	2021	2022	2023	2024	2019-2024 Total	Current Revenue	Reserve	Debt	External Source
GGC 00800	Electrical, Energy Management & Lighting Systems		17,800		27,200	96,400	28,400	152,600	322,400		322,400		
GGC 00900	Mechanical/HVAC Systems Replacements		361,700	88,100	14,600	12,000	106,800	239,400	822,600		822,600		
GGC 01000	Painting, Ceilings, Partition & Window Replacements		121,900	210,800	59,900	13,500	151,500	511,500	1,069,100		1,069,100		
GGC 01100	Roofing, Gutter, Siding and Deck Replacements			55,000	5,100		37,100	20,200	117,400		117,400		
GGC 01200	Flooring Replacements		37,100	167,600	172,500	28,400	22,700	157,900	586,200		586,200		
Subtotal Funded General Government Projects - Facilities Sinking Fund		-	538,500	521,500	279,300	150,300	346,500	1,081,600	2,917,700	-	2,917,700	-	-

Other Projects										Funding Source			
Project Number	Project Title	Prior Year(s)	2019	2020	2021	2022	2023	2024	2019-2024 Total	Current	Reserve	Debt	External
										Revenue			
GGC 01321	<i>Detox Tank Conversion</i>		420,000						420,000	420,000			
GGC 03704	Public Works Maintenance Center Tenant Improvements		250,000						250,000		250,000		
GGC 03801	Municipal Garage Repairs		275,000						275,000		275,000		
GGC 04200	City Hall Annex HVAC Installation								220,000		220,000		
GGC 04300	Eductor Truck Bay Expansion		250,000						250,000		250,000		
Subtotal Funded General Government - Other Projects		-	1,415,000	-	-	-	-	-	1,415,000	420,000	995,000	-	-

Total Funded General Government Projects - Facilities		-	1,953,500	521,500	279,300	150,300	346,500	1,081,600	4,332,700	420,000	3,912,700	-	-
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Notes

Italics = Modification in timing and/or cost (see Project Modification/Deletion Schedule for more detail)

Bold = New projects

+ = Moved from unfunded status to funded status

" = Moved from funded status to unfunded status

Note: No Unfunded Facilities Projects



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Michael Olson, Director of Finance & Administration
David Goldman, Deputy Director of Finance & Administration
Shannon Olsen, Financial Planning Manager

Date: October 24, 2019

Subject: MID-BIENNIAL BUDGET & CAPITAL IMPROVEMENT PROGRAM – PUBLIC HEARING

The Kirkland Municipal Code (KMC 5.02.020) calls for a public hearing as part of the mid-biennial budget review and Capital Improvement Program update process. Staff presented a summary of the mid-biennial budget and capital improvement program update at the study session prior to the current Council meeting. The packet for the Study Session is available at the links below. Any public comments will be evaluated for inclusion when the Council takes up final adoption of the budget and CIP at the December 10, 2019 Council meeting.

[Mid-Biennial Budget Link](#)

[Capital Improvement Program Link](#)

**CITY OF KIRKLAND**

123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Heather Kelly, Emergency Manager
Joe Sanford, Fire Chief

Date: October 15, 2019

Subject: COMMUNITY EMERGENCY RESPONSE TEAM #28 GRADUATION

RECOMMENDATION:

Recognize the graduates of the City of Kirkland's 28th Community Emergency Response Team (CERT) class and award their Certificate of Completion.

After Council recognition the group will leave and attend a reception in their honor.

BACKGROUND DISCUSSION:

In today's world, schedules are full and occupied with school, work, family, and many options for volunteering. That these community members chose to educate themselves to help others in times of need speaks volumes to their values and commitment to their community. These volunteers, who have invested in CERT training, will help the City of Kirkland respond to and recover from a major disaster.

The Community Emergency Response Team (CERT) program educates community members about disaster preparedness and response. This course teaches how to be prepared for a disaster and trains participants in skills to be able to help themselves, their families, and others during a disaster. The 26-hour CERT course is taught by a team of paid and volunteer instructors. Training covers the Incident Command System, disaster preparedness, fire suppression, basic medical assessment and first aid, light search & rescue operations, and disaster psychology.

CERT graduates have learned the risks disasters pose to people and property. They have taken steps to reduce hazards and lessen the impact of disasters. When disasters overwhelm local response capability, CERTs take care of themselves and give critical support to their family, neighbors, and their community.

The Office of Emergency Management would also like to thank the dedicated staff and volunteers that make CERT training possible.

The next course will be held in the Spring of 2020.

Community Emergency Response Team Training Class # 28 (Fall 2019) GRADUATION LIST		
First Name	Last Name	Neighborhood
Jaime	Allen	Lakeview
Janis	Anable	Bothell
Frankie	Anderson	Finn Hill
Brian	Calvery	Evergreen Hill/Kingsgate
Nikolay	Glushnev	Woodinville
Sarah	Huntley	Juanita
Michael	Huntley	Juanita
Steve	Irwin	Evergreen Hill/Kingsgate
Indira	Ismailova	Finn Hill
Maryna	Kantsyr	Finn Hill
Andrii	Khaisin	Finn Hill
Qinglin	Ma	South Rose Hill/Bridle Trails
Teresa	Pellett	Evergreen Hill/Kingsgate
Joyce	Simons	Moss Bay
Todd	Stefan	Central Houghton
Jeanne	Thomas	Evergreen Hill/Kingsgate
Steve	Weinberg	Everest
Kevin	Whinihan	Juanita
Kit	Williams	North Rose Hill
Susan	Wynne	Norkirk

**CITY OF KIRKLAND****City Manager's Office**

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001

www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Lorrie McKay, Intergovernmental Relations and Economic Development Manager
Martha Chaudry, Neon Cloud, LLC (Contract)
Jim Lopez, Assistant City Manager

Date: October 24, 2019

Subject: VILLAGE AT TOTEM LAKE PUBLIC ART PROPOSAL: "DANDELIONS" BY MIREK STRUZIK

RECOMMENDATION:

City Council receive a presentation from Elizabeth Clipp Martin, Development Associate with CenterCal Properties LLC on the public art proposal for the Public Plaza at The Village at Totem Lake and, provide approval for CenterCal to commission this public art as soon as possible.

BACKGROUND DISCUSSION:

The redevelopment of the Totem Lake Mall has a long history dating back to at least 2006, when the City entered into an initial redevelopment agreement related to the mall with Coventry II DDR Totem Lake, LLC (Ordinance 4034). On March 3, 2015, the City passed Resolution R-5109, assigning Coventry's rights and obligations under the Redevelopment Agreement to The Village at Totem Lake. On April 22, 2015, CenterCal Properties (Village at Totem Lake, LLC), a Los Angeles County-based developer became the new owner of Totem Lake Mall and entered into an agreement with the City, which extended the term of the Redevelopment Agreement, pending submittal of revised plans for redevelopment of the Mall to the City. The Village at Totem Lake (VTL) subsequently proposed extensive revisions to the original design plan, including increased retail space, additional residential units, and additional improvements that provide substantial public benefits. On November 21, 2017, Council passed Resolution R-5285, approving an Amended and Restated Redevelopment Agreement with Village at Totem Lake LLC (Attachment A).

Throughout this period, VTL has consistently engaged with the City's Design Review Board and environmental review and permitting processes. VTL obtained Design Review Board approval of Phase I of the development plan (lower Mall) in April of 2016 and of Phase II of the development plan (upper Mall) in March 2017. Both phases are expected to be completed in 2022.

Phase I (Lower Mall), the area of the Mall property between Totem Lake Boulevard and 120th Avenue NE is experiencing a palpable sea-change in vibrancy and economic activity. The lower mall's anchor stores - Whole Foods, Trader Joe's, Nordstrom Rack, and Ross - are all open for business today, as are MOD Pizza, Chipotle, 203° Fahrenheit Coffee and more. Other retail outlets and residential units will be opening soon.

Phase II (Upper Mall) is the area of the Mall property east of 120th Avenue NE. In addition to approximately 605 residential units, the upper mall will include ground floor retail, a movie theatre, restaurant space, and a public plaza with public art. It is the proposed public art for the plaza that is the subject of Council's Special Presentation at its November 6 meeting.

Public Plaza Improvements and Public Plaza Artwork

Article IV of the 2017 Amended and Restated Redevelopment Agreement for the Totem Lake Mall, addresses the Public Plaza and the Public Artwork. Section 4.1.1 addresses its construction phases and processes for proposed modifications. Section 4.1.2 addresses the City's \$100,000 financial participation toward artwork within the Public Plaza, the Developer's agreement to reasonably coordinate the selection of this artwork with the City and the Kirkland Cultural Arts Commission, as well as final selection of artwork for the Public Plaza being subject to the mutual agreement of the City and the Developer.

There is a significant public component to the Public Plaza project, including a public park that is intended to resemble a European plaza and emulate an outdoor, public "living room." The park is flanked by buildings on all sides, positioned directly in front of the movie theater, and is designed to be vibrant and bustling with pedestrian areas and places for people to sit and meet. The proposed Public Plaza Artwork is comprised of three, 14 and 16-foot tall stainless-steel dandelions fabricated by world-renowned artist Mirek Struzik.



Struzik's dandelions are installed in only four other cities in the world: Seoul, South Korea; Istanbul, Turkey; Wroclaw, Poland (Struzik is Polish); and the latest and grandest installation of 14 dandelion forms is in the plaza in Dubai, UAE, in front of the Burj Khalifa -- the tallest building in the world.

The installation of Struzik's dandelions at The Village at Totem Lake adds a striking and contemporary work to Kirkland's public art collection and puts Kirkland on the map with other grand cities that play host to Struzik's work. Struzik's dandelions are globally beloved as graceful, natural forms in the built environment, made whimsical and delightful by their unexpected scale. Conceptually, the dandelions pay homage to key aspects of Kirkland's character; nodding to the vitality of transformation, resilience, dispersal, growth and adaptation. Practically, they provide a recognizable, iconic and easily describable landmark and meet-up location for visitors to and residents of VTL and can be playfully integrated into celebrations and events in the community through modular lighting features which can transform their look and color. CenterCal is investing \$79,000 in addition to the City's \$100,000 contribution to commission this art.

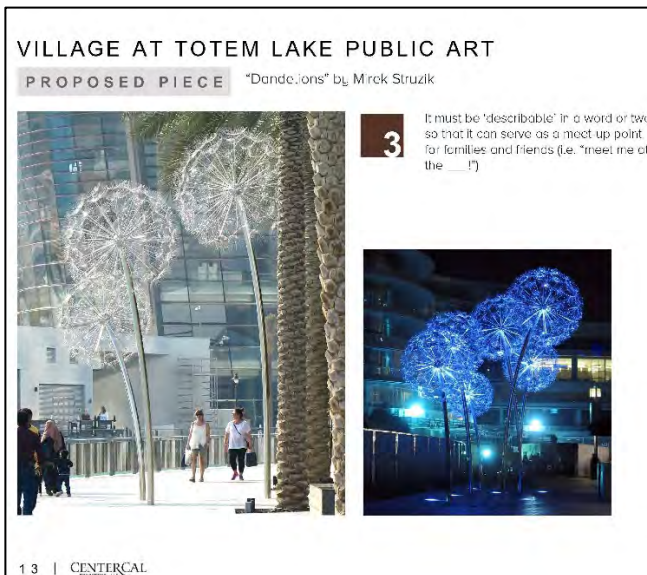


In accordance with Section 4.1.1 of Article IV of the 2017 agreement, on September 4, 2019, the Design Review Board (DRB) reviewed project modifications proposed for the Public Plaza at The Village at Totem Lake that were submitted on August 8, 2019 ([VTL Phase II Staff Report - PDF 9.8MB](#)). The proposed minor improvements were supported by staff, as they were reflective of minor alterations typically seen as a development's design evolves with construction drawings. The changes were found to be consistent with the general design principles approved by the Board.

In accordance with Section 4.1.2 of Article IV of the 2017 agreement, on September 18, 2019, the Kirkland Cultural Arts Commission (KCAC) received a presentation from Elizabeth Clipp Martin on CenterCal's concept for public art in the public plaza at the Village at Totem Lake, following the DRB's September 4

approval of the proposed project modifications. The Commission's feedback included a strong recommendation to explore alternative locations for the sculpture within the Public Plaza, rather than in the water feature. Ms. Clipp Martin indicated support of the KCAC's feedback in exploring alternate locations for the piece, including places where people could find themselves among the dandelions. Ms. Clipp Martin indicated that she would endeavor to incorporate other comments such as addressing the nearby trees and landscaping to complement the piece in its new location, working with the artist to identify pricing for taller dandelions with curved stems, and looking into the mechanics of lighting for color-changing illumination.

In summary, staff recommends City Council approval for CenterCal to commission "Dandelions" by Mirek Struzik public art as soon as possible. This would mitigate potential delays with fabrication, shipping and installation.



RESOLUTION R-5285

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND
APPROVING AN AMENDED AND RESTATED REDEVELOPMENT
AGREEMENT WITH VILLAGE AT TOTEM LAKE, LLC.

1 WHEREAS, pursuant to Ordinance O-4034 adopted January 17,
2 2006, the City of Kirkland ("City") and Coventry II DDR Totem Lake, LLC
3 ("Coventry") entered into a Redevelopment Agreement for Totem Lake
4 Mall ("Redevelopment Agreement"), with respect to certain real
5 property in the City owned by Coventry and commonly known as the
6 Totem Lake Mall ("Mall"); and
7

8 WHEREAS, Village at Totem Lake, LLC ("VTL") acquired the Mall
9 from Coventry subject to the Redevelopment Agreement; and
10

11 WHEREAS, pursuant to Resolution R-5109 passed on March 3,
12 2015, the City consented to the assignment of Coventry's rights and
13 obligations under the Redevelopment Agreement to VTL, and VTL and
14 the City entered into an Agreement to Extend and Amend the
15 Redevelopment Agreement for Totem Lake dated April 22, 2015, which
16 extended the term of the Redevelopment Agreement pending submittal
17 to the City by VTL of revised plans for redevelopment of the Mall; and
18

19 WHEREAS, the Design Board Approval of the Conceptual Master
20 Plan was granted on December 5, 2005 and VTL obtained City approval
21 of a minor modification to the Conceptual Master Plan on February 11,
22 2015; and
23

24 WHEREAS, VTL has revised plans for redevelopment of the Mall
25 ("Plan") and the City has approved the Plan for redevelopment in two
26 phases; and
27

28 WHEREAS, VTL obtained Design Board Approval of Phase I of
29 the Plan (lower Mall) on April, 2016 and of Phase II of the Plan (upper
30 Mall) on March 23, 2017; and
31

32 WHEREAS, pursuant to the State Environmental Policy Act,
33 Chapter 43.21C RCW ("SEPA") and the Administrative Guidelines and
34 the local ordinance adopted to implement it, environmental checklists
35 were submitted to the City and reviewed by the City's responsible
36 official, who issued a SEPA mitigated determination of non-significance
37 for the Plan dated January 19, 2006, a SEPA Addendum dated February
38 26, 2015 in conjunction with the amended Plan, and a SEPA
39 determination of non-significance dated March 7, 2017 for the current
40 Plan as amended and approved by the Design Review Board; and

41 WHEREAS, said environmental checklists and determinations
42 have been publicly available and have accompanied the application
43 throughout the entire review process; and

44
45 WHEREAS, the City hereby confirms its prior findings that
46 extensive demolition, reconfiguration and construction of buildings and
47 improvements will provide significant benefit to the City and its
48 residents; and

49
50 WHEREAS, building permits have been issued to VTL by the City;
51 and

52
53 WHEREAS, under the Plan the completed Mall will be comprised
54 of approximately 376,166 square feet of retail space and approximately
55 1,516,450 square feet of multi-family residential use consisting of
56 approximately 850 to 1,050 residential units with completion of both
57 phases within five years; and

58
59 WHEREAS, a portion of 120th Avenue NE, which generally runs
60 north to south through the Mall, will be improved in coordination with
61 redevelopment of the Mall; and

62
63 WHEREAS, public use and enjoyment will be enhanced by
64 creation of a new east-west public plaza (the "Public Plaza") and
65 improvements to 120th Avenue NE consistent with the Public Plaza,
66 which improvements will create a regional public gathering place and
67 will be the site of public events; and

68
69 WHEREAS, the Mall redevelopment is expected to increase tax
70 revenues, thereby improving the financial stability and general economic
71 vitality of the city of Kirkland; and

72
73 WHEREAS, the Mall redevelopment will create new employment
74 opportunities and new housing adjacent to public transit and other
75 public and private amenities, which will materially assist the City in
76 carrying out the goals and objectives of the Comprehensive Plan and
77 the Totem Lake Neighborhood Plan; and

78
79 WHEREAS, in consideration of the real property and perpetual,
80 non-exclusive easements that the VTL will sell and/or dedicate to the
81 City and VTL's construction of improvements in the City right of way and
82 on or in the property it will sell and/or dedicate to the City and other
83 valuable consideration, the City is willing to pay VTL up to \$15,000,000
84 under the terms and conditions set forth in the Amended and Restated
85 Redevelopment Agreement (the "Agreement") attached hereto as
86 Exhibit A; and

R-5285

87 WHEREAS, an appraisal by Kidder Mathews Valuation Advisory
88 Services dated November 7, 2017 confirms that the property and
89 perpetual, non-exclusive easements to be acquired by the City are
90 valued at \$6,795,266; and

91
92 WHEREAS, the City estimates that actual cost of the
93 improvements to be constructed and installed on and within such
94 property interests to be \$8,699,190; and

95
96 WHEREAS, at no cost to the City, the additional public benefits
97 associated with VTL's agreement to maintain, repair and replace the
98 Public Plaza for the longer of twenty-five years or for so long as the Mall
99 is used as a shopping center have been appraised to have a net present
100 value of \$6,730,000; and

101
102 WHEREAS, at no cost to the City, the additional public benefits
103 associated with the pedestrian corridors to Evergreen Hospital and
104 Madison are estimated to be \$864,331; and

105
106 WHEREAS, at no cost to the City, the additional public benefits
107 associated with the 120th Avenue NE right-of-way improvements and
108 additional traffic improvements are estimated to be \$3,966,864; and

109
110 WHEREAS, the total value of the public benefits associated with
111 the redevelopment of the Mall are therefore estimated at \$27,055,651;
112 and

113
114 WHEREAS, in consideration of the property and improvements
115 that the City will acquire from VTL and its promises to provide additional
116 consideration in accordance with the Agreement, the City determines
117 that it is receiving fair and adequate consideration in return for its up to
118 \$15,000,000 payment to VTL, payable upon the terms and conditions
119 set forth in the Agreement; and

120
121 WHEREAS, the City has determined that the amount and timing
122 of estimated tax revenues derived from the Mall and other resources
123 will be adequate to meet debt service on any amounts borrowed to
124 make its payment obligations to VTL; and

125
126 WHEREAS, the Agreement is authorized by RCW 36.70B.170
127 through 36.70B.210; and

128
129 WHEREAS, as required by RCW 36.70B.200, the City held a
130 public hearing on the Redevelopment Agreement for the Mall on January
131 3, 2006 and January 17, 2006, and on November 21, 2017; and

132 WHEREAS, having considered the testimony, staff analysis and
133 comments at the public hearing, the City desires to enter into the
134 Agreement for redevelopment of the Mall.

135
136 NOW, THEREFORE, be it resolved by the City Council of the City
137 of Kirkland as follows:
138

139 Section 1. The City Manager is authorized and directed execute
140 a development agreement with Village at Totem Lake, LLC, substantially
141 in the form of the Amended and Restated Redevelopment Agreement
142 attached to this resolution. The City Manager is further authorized to
143 execute such minor amendments to the Agreement as may be necessary
144 and agreed to by the parties thereto from time to time without further
145 City Council approvals.
146

147 Passed by majority vote of the Kirkland City Council in open
148 meeting this 21st day of November, 2017.

149 Signed in authentication thereof this 21st day of November,
150 2017.
151



Amy Walen, Mayor

Attest:



Kathi Anderson, City Clerk

**AMENDED AND RESTATED
REDEVELOPMENT AGREEMENT
FOR THE TOTEM LAKE MALL**

**City of Kirkland, Washington
Village at Totem Lake, LLC**

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**AMENDED AND RESTATED REDEVELOPMENT AGREEMENT
FOR THE TOTEM LAKE MALL**

THIS AMENDED AND RESTATED REDEVELOPMENT AGREEMENT (“this Agreement”) is made and entered into effective the ____ day of November, 2017 (“Effective Date”), by and between the **CITY OF KIRKLAND**, a municipal corporation duly organized under the laws of the State of Washington (“City”), and **VILLAGE AT TOTEM LAKE, LLC**, a Delaware limited liability company (“VTL” or “Developer”). Collectively, the City and VTL may be referred to herein as the “Parties” and individually as a “Party.”

RECITALS

A. The Totem Lake Mall (“Mall”) is located in the city of Kirkland on approximately 26 acres of land as legally described in **Exhibit A** (“Property”). The Mall is at the heart of the Totem Lake Business District, and is an area that is designated as a regional “Urban Center” by the Kirkland Comprehensive Plan and King County Countywide Planning Policies. The Comprehensive Plan contains goals and policies that promote redevelopment of the Mall to strengthen its role as a mixed-use retail center and community gathering place. However, the City continues to recognize the Mall as an under-performing property in need of redevelopment and, accordingly, has identified redevelopment of the Mall as a top economic development priority.

B. The City and Coventry II DDR Totem Lake, LLC (“Coventry”) entered into the original Agreement for redevelopment of the Totem Lake Mall on March 6, 2006, in accordance with RCW 36.70B.170-210. The original Agreement was approved by the City on January 17, 2006. In April 2006, after a SEPA mitigated determination of non-significance was issued by the City, the original Conceptual Master Plan (“CMP”) for the Project was approved by the City Design Review Board, including all commercial development and 216 multi-family residential units.

C. The Project was delayed during an economic downturn. In 2015, Coventry sold the Property to VTL and, with the City’s consent, assigned its rights under the Agreement to VTL. In conjunction therewith, VTL proposed a revised development plan that included all commercial development and 395 multi-family residential units. In April 2015, after a SEPA Addendum was issued, an amended CMP for the revised development plan was approved by the City Design Review Board. In addition, the City and VTL entered into an Extended and Amended Redevelopment Agreement for Totem Lake Mall, dated April 22, 2015.

D. Subsequently, VTL further modified the revised development plan to include all commercial development and up to 1,050 multi-family residential units. VTL has obtained City Design Review Board approval of the current development plan for the entire Mall. Both the City and VTL are satisfied and accept the Project Plans for Phase 1, approved on April 4, 2016 (File No. DRV 15-01765), and the Project Plans for Phase 2, approved on March 23, 2017 (File No. DRV16-00914).

E. The current development plan includes extensive demolition, reconfiguration and construction of buildings and improvements, with the completed Mall to be comprised of approximately 376,166 square feet of retail and approximately 1,516,450 square feet of multi-family residential use consisting of approximately 850 and up to 1,050 residential units.

F. The current development plan is anticipated to be completed in two phases. Phase 1, which is the Mall generally west of 120th Avenue NE, is anticipated for completion within three (3) years of the Effective Date of this Agreement. Phase 2, which is the Mall generally east of 120th Avenue NE, is anticipated for completion within five (5) years of the Effective Date of this Agreement. Improvements to 120th Avenue NE will be constructed in both Phase 1 and Phase 2 as described in Article VI. In addition to private development of commercial buildings and multi-family residential units, VTL will be constructing improvements throughout the Property intended for public use and benefit.

G. As part of its development of the Property, VTL will design, construct and maintain a new east-west public plaza and park as depicted on **Exhibit B**. The terms and conditions governing the public plaza and park are set forth in Article IV of this Agreement.

H. VTL will also design, construct and maintain, as applicable, Additional Improvements, including Bicycle/Pedestrian Lanes along Totem Lake Boulevard; Pedestrian Corridors to provide public access to and from Evergreen Hospital and the Madison House; and Traffic Improvements within 120th Avenue NE and Totem Lake Boulevard. The terms and conditions governing the Additional Improvements are set forth in Article V of this Agreement.

I. In addition, VTL will design, improve and contribute to maintenance of a segment of 120th Avenue NE running generally north/south through the Mall ("120th Avenue Improvements"), which will include (1) rebuilding portions of 120th Avenue NE and constructing sidewalks, curbs and gutters; (2) construction and installation of Traffic Improvements applicable to 120th Avenue NE; and (3) dedication to the City of land along 120th Avenue NE abutting the Property as shown on **Exhibit B**.

J. VTL agrees to maintain the land and improvements as shown on **Exhibit B** in accordance with the terms and conditions set forth in this Agreement; provided, however, that VTL shall have the right to delegate such maintenance responsibilities to a private master association to be formed whose members are private owners of land within the Project.

K. Use of the public spaces and reduction of traffic congestion will both be facilitated by VTL creating parking spaces along 120th Avenue NE in conjunction with the 120th Avenue NE Improvements and within the public plaza in Phase 1.

L. The Mall redevelopment is expected to increase City tax revenues, which will improve the financial stability and general economic vitality of the City. The Mall redevelopment will also create a public gathering place, new employment and housing opportunities at the Mall, which is adjacent to public transit and other public and private amenities, and also materially assist

the City in carrying out the goals and objectives of the Kirkland Comprehensive Plan and the Totem Lake Neighborhood Plan.

M. The City also expects to receive considerable public benefits, both tangible and intangible, from public use of the public plaza and park; the 120th Avenue NE Improvements; the Additional Improvements; and VTL's provision of maintenance in accordance with the terms of this Agreement.

N. VTL is willing to undertake significant responsibilities and risks associated with developing and constructing the improvements described in this Agreement for public use in both public right-of-way and the Property, and also in undertaking the ongoing maintenance responsibilities described in this Agreement.

O. VTL will develop and construct certain improvements and sell to the City certain property rights associated therewith described in Article IX of this Agreement that will provide significant public benefits ("Acquired Property"). As additional consideration, and as part of its Project, VTL, at its sole cost and expense, will also develop and construct certain improvements described in this Agreement that will further benefit the public by enhancing vehicular and pedestrian access to the Property and other land within the vicinity of the Property ("Vehicular/Pedestrian Access Improvements"). In addition, VTL will provide maintenance as set forth in this Agreement for the longer of twenty-five (25) years or so long as the Property is used as a Shopping Mall. An Appraisal Report obtained in conjunction with this Agreement estimates the value of the Acquired Property, Vehicular/Pedestrian Access Improvements and maintenance obligations of VTL to be approximately \$27,055,651.00. A Cost-Sharing and Public Benefits Table showing the estimated value of the Acquired Property, Vehicular/Pedestrian Access Improvements and maintenance is attached hereto as **Exhibit H**.

P. The City agrees to accept without payment those Vehicular/Pedestrian Access Improvements located within 120th Avenue NE, Totem Lake Boulevard and Totem Lake Way rights-of-way upon completion. The City agrees to pay VTL an amount up to \$15,000,000.00 as described in Article IX of this Agreement for the Acquired Property. The amount the City will pay for the Acquired Property will be based on the Actual Costs of such improvements and the appraised value of land dedicated or over which perpetual non-exclusive easements are conveyed to the City in accordance with Exhibit H and, thus, represents reasonable and adequate consideration in the City's judgment for the improvements and property rights it will acquire by payment. This finding of adequacy and reasonableness is made without taking into account the additional consideration the City will receive hereunder, including the Vehicular/Pedestrian Access Improvements and various promises made by VTL including its ongoing obligation to maintain various properties for public use and enjoyment. The City anticipates that tax and other revenue from the redeveloped Mall will be sufficient to pay the debt service of any City bonds that are issued to fund all, or a portion of, the City's anticipated payment of up to \$15,000,000.00.

Q. This Agreement is authorized by RCW 36.70B.170-210. As required by RCW 36.70B.200, the City has held public hearings on this Agreement, and adopted requisite

Resolutions approving the Agreement, as amended, on January 17, 2006, March 3, 2015, and November 21, 2017.

R. The Parties desire to amend and restate the original Agreement to reflect the acquisition of the Property by VTL, the assignment of the Agreement to VTL, and the current development plan. The Parties also desire to affirm the vesting of certain development rights contained herein, all in accordance with the provisions of RCW 36.70B.170-210.

S. By this Agreement, the Parties intend to set forth their mutual agreement and understandings as they relate to VTL's redevelopment of the Mall and the City's potential acquisition of improvements and property rights as set forth in this Agreement. The City has determined that the terms and conditions set forth herein will serve a public use and will promote the health, safety, prosperity and general welfare of the citizens of the City.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I DEFINITIONS

1.1 "Actual Costs" mean the total costs, whether direct or indirect, including, but not limited to, building materials, supplies and improvements, infrastructure, labor and services; design; permits and other governmental approvals; general and subcontractor contracts, including, but not limited to, general contractor expenses associated with management, administration, overhead and profit; taxes paid or incurred; legal, testing, inspection and consulting fees and expenses (engineers, architects, construction, attorneys, traffic, survey, geotechnical, design professionals and planners, landscape, appraisal and others); financing and carrying expenses; insurance; performance and/or payment bonds; demolition; bid preparation and administration; equipment and other rental expenses; computer charges; temporary sanitation and site preparation; temporary weather protection; temporary structures; project safety; safety equipment; progress cleanup; barricades and temporary fences; temporary signage; field office equipment, supplies, furniture and other office expenses; telephone and postage; travel; and all other infrastructure, improvements, work or services attributable to the project. Actual Cost shall also include a fee equal to five percent (5%) of the Actual Costs (exclusive of this fee), which shall be payable to the Developer for its management and administration of the project.

1.2 "Additional Improvements" means the Bicycle/Pedestrian Lanes along Totem Lake Boulevard; Pedestrian Corridors; Traffic Improvements in existing rights-of-way and improvements on property to be dedicated to the City, or conveyed by perpetual non-exclusive easement for public use, in accordance with Article V of this Agreement.

1.3 "Agreement" means this Agreement as may be amended in accordance with the terms hereof.

1.4 “Acquisition Amount” means the respective amounts determined consistent with Section 7.4 of this Agreement.

1.5 “Acquisition Date” means the respective dates determined in accordance with Section 7.3 of this Agreement.

1.6 “Acquired Property” means the property rights and improvements constructed by VTL on the Property as set forth in Article IX for which the City will provide City Financial Participation.

1.7 “Bicycle/Pedestrian Lanes” means the Bicycle/Pedestrian Lanes to be constructed along Totem Lake Boulevard in accordance with Section 5.3 of this Agreement.

1.8 “City” means the City of Kirkland, Washington.

1.9 “City Financial Participation” means the City’s commitment of up to \$15,000,000.00 to acquire certain improvements, property rights and realize other public benefits pursuant to this Agreement.

1.10 “City Council” means the City Council of the City.

1.11 “Closing” means a transfer of property or property rights with respect to the Project and the attendant recording of documents in the property records of King County in accordance with this Agreement.

1.12 “Design Guidelines” means the Design Guidelines for Pedestrian-Oriented Business Districts, KMC 3.30.040.

1.13 “Developer” means Village at Totem Lake, LLC, a Delaware limited liability company, and its permitted successors and assigns.

1.14 “Development Regulations” means those portions of the KMC and KZC pertaining to zoning, land use, design, building, construction, landscape, signage, permitting, planning and other elements that govern real estate development within the TL2 Zone.

1.15 “Escrow Holder” means Chicago Title Insurance Company of Washington, 701 5th Avenue, Suite 2300, Seattle, WA 98104 or another nationally recognized title insurance company selected by the Developer and not objected to by the City, which shall act as the escrow agent for closing of all transactions contemplated by this Agreement and provide the title insurance policies to be delivered in connection with the transfer of improvements and property rights in accordance with this Agreement.

1.16 “Force Majeure” means any circumstances or acts beyond the reasonable control of the Developer or the City which do not arise from a default by or collusion of the Party seeking delay, including, but not limited to, a fire, rain, storm, wind, flood, earthquake, epidemic, explosion, volcanic eruption, earth movement, radioactive contamination, earth slide, quarantine

restriction, act of war (whether declared or undeclared), interference by civil or military authority, riot or public discord, civil disturbance, permitting delays, labor strike or other organized labor disruption, delay associated with shortage or unavailability of materials reasonably necessary for the Project, litigation adversely impacting the ability to proceed with all, or portions of, the Project, act of terrorism, sabotage, suspension of the national or State banking system due to financial crisis, or the closing of the New York Stock Exchange due to financial crisis or other such disruption in the financial markets which impair the ability of either Party to borrow funds.

1.17 “Franchise Utilities” means electricity, natural gas, telecommunications, sewer, water and any other utilities not provided by the City.

1.18 “Intersections” means intersections of public streets where two or more streets or roadways join or cross, including the streets, roadways and roadside facilities for traffic movement within them.

1.19 “KMC” means the City of Kirkland Municipal Code.

1.20 “KZC” means the City of Kirkland Zoning Code.

1.21 “Pedestrian Corridors” means the pedestrian corridor to and from Evergreen Hospital as described in Section 5.1 and the pedestrian corridor to and from the Madison House as described in Section 5.2.

1.22 “Phase 1” means development on the Property west of 120th Avenue NE, and a portion of the 120th Avenue NE Improvements in accordance with Article VI of this Agreement.

1.23 “Phase 1 Public Plaza Improvements” means the Public Plaza Improvements located within Phase 1 of the Project.

1.24 “Phase 1 Transaction” means the Phase 1 Transaction described in Section 7.1 of this Agreement.

1.25 “Phase 2” means development on the Property east of 120th Avenue NE, and a portion of the 120th Avenue NE Improvements in accordance with Article VI of this Agreement.

1.26 “Phase 2 Public Plaza Improvements” means the Public Plaza Improvements located within Phase 2 of the Project.

1.27 “Phase 2 Transaction” means the Phase 2 Transaction described in Section 7.1 of this Agreement.

1.28 “Phase Plan” means a proposed design plan for Phase 1 or Phase 2 of the Project Plan submitted for review and approved by the City Design Review Board.

1.29 “Project” means the Developer’s proposed redevelopment of the Mall and associated facilities, as may be amended from time to time, in accordance with this Agreement and applicable regulations.

1.30 “Project Plan” means the “Totem Lake Mall Conceptual Master Plan” which was approved by the City Design Review Board on November 7, 2005, and the “Amended Totem Lake Mall Conceptual Master Plan” which was approved by the City Design Review Board on February 11, 2015, as may be amended or revised from time-to-time, and which is incorporated by reference into this Agreement.

1.31 “Property” means the Mall, as legally described in **Exhibit A**.

1.32 “Public Plaza” means the land and improvements, which are located perpendicular to 120th Avenue NE and generally in the middle of the Mall. The Public Plaza does not include the right-of-way of 120th Avenue NE and the improvements therein. The Public Plaza, which shall consist of the Phase 1 Public Plaza Improvements and the Phase 2 Public Plaza Improvements, is described generally in the Project Plan and more specifically in Article IV of this Agreement.

1.33 “Public Plaza Improvements” means the improvements constructed pursuant to this Agreement and located within the Public Plaza, and includes the Phase 1 Public Plaza Improvements and the Phase 2 Public Plaza Improvements.

1.34 “Retail” uses means selling goods or providing services to customers and includes restaurants and taverns, retail stores, grocers, theatres and entertainment, banks and other financial services, offices, fitness centers and other similar uses approved for the City TL2 Zone.

1.35 “SEPA” means the Washington State Environmental Policy Act.

1.36 “Shopping Mall” means the configuration of retail structures and related improvements as depicted on **Exhibit B**. The phrase “so long as the Property is used as a Shopping Mall” means so long as the structures comprising the Shopping Mall have not been replaced, converted or repurposed for another use.

1.37 “Substantial Completion” means (A) with regard to the improvements to be acquired by the City, Developer certification of Substantial Completion, subject to normal punch list items; and (B) with regard to construction of private buildings in Phase 1 and Phase 2, Developer certification of Substantial Completion of the shell and core ready for tenant improvements.

1.38 “Title Company” means Chicago Title Company or another nationally recognized title insurance company selected by VTL and not objected to by the City.

1.39 “TL2 Zone” means the Totem Lake 2 Zone as designated in the Kirkland Comprehensive Plan and implemented through the Development Regulations.

1.40 “Totem Lake Neighborhood Plan” means the Totem Lake Neighborhood Plan approved by the City Council most recently on January 15, 2002.

1.41 “Traffic Improvements” means the Traffic Improvements set forth in the Traffic Improvements Agreement between the Developer and the City dated January 10, 2017, a copy of which is attached as **Exhibit C**, and as further described in Section 5.4 herein.

1.42 “Transaction” shall have the meaning set forth in Section 7.1.

1.43 “Utilities” means both City utilities and Franchise Utilities including, but not limited to, water, sewer, electricity, telecommunications, natural gas, and stormwater conveyance system improvements that serve, or will serve, the Mall.

1.44 “Vehicular/Pedestrian Access Improvements” means certain street and traffic improvements located within 120th Avenue NE, Totem Lake Boulevard and Totem Lake Way; and pedestrian access improvements within the Pedestrian Corridors to be developed and constructed by VTL at its sole cost and expense.

1.45 “120th Avenue NE” means that segment of the 120th Avenue NE right-of-way wherein the 120th Avenue NE Improvements will occur.

1.46 “120th Avenue NE Improvements” means the improvements within the 120th Avenue NE right-of-way, and work adjacent thereto on the Property, including hardscapes/sidewalks, on land to be dedicated to the City as described in Section 6.1.

ARTICLE II GENERAL PROJECT DESCRIPTION; SCHEDULE

The Developer shall have the right, but not the obligation, to construct the Project. Notwithstanding anything to the contrary in this Agreement, and prior to payment of any portion of the City Financial Participation, the Developer may provide written notice to the City that the Developer elects not to proceed with redevelopment of the Mall in accordance with the Project Plan. In such case, either Party shall have the right and authority to unilaterally terminate this Agreement, and any and all rights and obligations relating thereto, at no cost to either Party. Otherwise, the Developer shall attempt to achieve Substantial Completion of the retail and residential components of the Project during the term of this Agreement, as may be extended. Phase 1 of the Project generally consists of the partial demolition, reconstruction and new construction of commercial development and approximately 201 multi-family residential units west of 120th Avenue NE, and includes (1) the Phase 1 Public Plaza Improvements; (2) the Additional Improvements, as set forth in Article V, located within or west of 120th Avenue NE; (3) that portion of the 120th Avenue NE Improvements comprising the street improvements, signalization and sidewalks/hardscapes located on the west side of 120th Avenue NE; and (4) conveyance of real property interests to the City on land associated with the Phase 1 Public Plaza Improvements, Bicycle/Pedestrian Lanes, and land on the west side of 120th Avenue NE as shown on **Exhibit B**. Phase 2 of the Project generally consists of the demolition, reconstruction

and new construction of commercial development and approximately 650 and up to 850 multi-family residential units east of 120th Avenue NE, and includes (A) the Phase 2 Public Plaza Improvements; (B) the Additional Improvements, as set forth in Article V, located east of 120th Avenue NE; (C) that portion of the 120th Avenue NE Improvements comprising sidewalks/hardscapes and other improvements located east of 120th Avenue NE on land to be dedicated to the City; and (D) conveyance of real property interests to the City on land associated with the Phase 2 Public Plaza Improvements, the east side of 120th Avenue NE, and north side of Totem Lake Way as shown on **Exhibit B**.

ARTICLE III DEVELOPMENT PLANNING

3.1 **SEPA.** The City has conducted extensive environmental review and prepared the following environmental documents: (1) An environmental impact statement (entitled "Environmental Impact Statement for Kirkland Comprehensive Plan 10 Year Update," dated October 15, 2004) in conjunction with adoption of its Comprehensive Plan and Development Regulations, which included within its scope the then anticipated level of redevelopment included within the Project; (2) a SEPA mitigated determination of non-significance for the Project, dated January 20, 2006; (3) a SEPA Addendum dated February 26, 2015, in conjunction with the amended Project Plan; and (4) a SEPA determination of non-significance dated March 17, 2017 in conjunction with Developer's Phase Plans.

3.2 **Subsequent Land Use and Permit Approvals.** The City will evaluate all subsequent development, demolition and/or construction permit applications for the Project based on consistency with this Agreement, the Project Plans and the Phase Plans. To the extent permitted by law, the City shall expedite and give priority status to the processing of City land use approvals, permit applications, construction drawings, plans and specifications, and similar or related submissions by the Developer associated with the Project.

3.3 **Modifications to Project Plan.** Any modifications to the Project Plans shall be made in accordance with conditions imposed by the City Design Review Board and set forth in the Project Plans.

3.4 **Phase Design Review.** Phase Design Review is required during the Project in accordance with the conditions imposed by the City Design Review Board and set forth in the Project Plan. As set forth in the Recitals, the City Design Review Board has approved the Phase Plans for both Phase 1 and Phase 2. Because the Project contemplates building construction over a portion of the retail components within Phase 1 and Phase 2, the Developer shall incorporate into the design elements for the ground floor retail structures that will include building construction over retail all of the necessary structural support, infrastructure, and related features that will be required to facilitate location of structures over the retail structures.

3.5 **Modifications to Phase Design Review Approval.** Any modifications to an approved Phase Plan shall be made in accordance with the conditions imposed by the City Design Review Board and set forth in the approved Phase Plan.

3.6 **Binding Site Plan.** The Developer will require City approval of a binding site plan for Phase 1 and another for Phase 2. The City agrees that the Mall is eligible for binding site plan approval. Developer has submitted the Village at Totem Lake – Phase 1 and Phase 2 – Binding Site Plans to the City for approval. The City will approve the Binding Site Plans within the Mall as necessary to facilitate redevelopment of the Mall in accordance with the Project Plan, Phase Plans and this Agreement, subject to a determination by the City Planning Director that the Binding Site Plans satisfy the criteria of KMC 22.04.040(b) through (f).

3.7 **Termination or Amendment of Existing Easements and/or Building Restrictions.** In furtherance of the Project Plan, the City hereby approves removal of the restrictive covenant on Tract G of the Plat of Puget Sound Center, dated June, 1970, which required Tract G to remain as permanent open space, with no buildings or other structures allowed thereon. The City also hereby approves removal of the building restrictions imposed on the easterly twelve feet (12') of the Project by instrument recorded under King County Auditor's File No. 7701140502. Also, to the extent there are additional easements, covenants, restrictions or other encumbrances of record in favor of the City within the Project, the City agrees to terminate or amend such encumbrances to the extent reasonably requested by the Developer in furtherance of the development of the Project.

ARTICLE IV PUBLIC PLAZA

4.1 **Preparation of Public Plaza Plans and Specifications.**

4.1.1 **Public Plaza Plans and Specifications.** The Public Plaza will be constructed in two phases, including the Phase 1 Public Plaza Improvements and the Phase 2 Public Plaza Improvements. The Public Plaza shall be designed to standards for pedestrian and vehicular access and circulation, safety, ease of maintenance, and attractiveness. As set forth in **Recital D**, the Developer has obtained City Design Review Board approvals of the Phase 1 Project Plan and the Phase 2 Project Plan, including the Public Plaza. In the event of any modification, amendment or revision to the Public Plaza, which will result in a modification, amendment or revision of the approved Phase 1 and/or Phase 2 Project Plans, then any such modification, amendment or revision shall be in accordance with this Agreement and generally consistent with the Public Plaza and 120th Avenue NE Design Standards attached hereto as **Exhibit D** ("Public Plaza Plans and Specifications"). In addition, any modification, amendment or revision shall be subject to approval in accordance with Chapter 142 KZC.

4.1.2 **Artwork Funding.** The City agrees to pay up to \$100,000.00 for artwork, murals, sculptures and similar improvements, such as free-standing objects or features incorporated into the Public Plaza Improvements within the Public Plaza ("Artwork") as part of the City Financial Participation. The Developer agrees to use reasonable efforts to coordinate the selection of this artwork with the City and the Kirkland Cultural Arts Commission and final selection of artwork for the Public Plaza and the payment amount shall be subject to the mutual agreement of the City and the Developer.

4.1.3 Administrative Approval of Public Plaza Plans and Specifications.

The Developer shall use reasonable efforts to coordinate input from the City and provide an opportunity for the City to review and comment on the proposed Public Plaza Plans and Specifications for each phase prior to formal submission for administrative approval. The Developer shall submit the proposed Public Plaza Plans and Specifications for each phase to the City for administrative review and approval by the City Planning Director. The administrative review shall be for the purpose of determining if the applicable phase of the Public Plaza will function appropriately for the City's needs, will meet or exceed applicable City public works standards, and will be consistent with this Agreement and the Public Plaza Design Standards; provided, however, that City administrative approval of any Public Plaza Plans and Specifications shall not be construed to subject the City to any liability to the Developer or any third party for defects in design. The City Planning Director shall issue his or her administrative decision on each phase approving, denying or requesting modification to the Public Plaza Plans and Specifications within twenty-one (21) days after submission or the Public Plaza Plans and Specifications shall be conclusively deemed approved. In the event of administrative denial or request for modification, the City Planning Director shall specify the basis for the decision and the Parties shall timely, diligently, and in good faith, attempt to resolve the matter expeditiously. The Developer and the City must approve each phase of the Public Plaza Plans and Specifications and, in the event of a dispute the Dispute Resolution procedures set forth in Article XVII shall apply.

4.2 City Modifications to Public Plaza Plans and Specifications.

Prior to administrative approval of either phase of the Public Plaza Plans and Specifications, or subsequent thereto if mutually agreed in writing by the City and the Developer, the City may request changes and additions to the proposed Public Plaza Plans and Specifications; provided, however, that such changes or additions requested shall not materially delay commencement of the work and the City agrees to pay for such requested changes or additions.

4.3 Public Plaza Construction.

4.3.1 Responsibilities of Developer. Subject to the terms of this Agreement, the Developer shall design, finance and construct each phase of the Public Plaza at its sole cost and expense, including any loans that Developer may deem necessary to carry out construction. The Public Plaza shall be designed to include all Utilities that are necessary to serve the Public Plaza and adjacent private components of the Project, and the appraisal value has taken into consideration the availability of all Utilities. The costs and expenses associated with any Utilities extensions to serve the adjacent private components of the Project shall be the sole responsibility of the Developer.

4.3.2 Compliance with Laws. The Public Plaza shall be built in compliance with all applicable building code and other laws, rules and regulations, including but not limited to the applicable provisions of Title III of the Americans with Disabilities Act and the regulations issued thereunder by the United States Department of Justice concerning accessibility of places of public accommodation. The Parties recognize, however, that construction of the Public Plaza is not a "public work" or otherwise subject to competitive or public bidding requirements, and that because the Public Plaza Improvements, together with the other

improvements to be conveyed or dedicated to the City, constitute less than 50% of the Project, these improvements are not subject to prevailing wage requirements. Accordingly, the Developer shall not be deemed in breach of this Agreement based upon non-compliance with any laws, rules or regulations relating thereto.

4.3.3 Permits. The Developer shall obtain all permits and authorizations from any federal, state or local government or departments or subdivisions thereof having jurisdiction in order to permit construction of each phase of the Public Plaza. The City will process applications for permits and approvals as if such applications were made without any City participation in such project.

4.3.4 Construction Warranty. The Developer's general contractor, pursuant to the construction contract(s) for each phase of the Public Plaza, or the Developer, at the Developer's option, shall for one (1) year after Substantial Completion of a phase of the Public Plaza, correct and repair any material defects appearing or developing in the workmanship or materials furnished in respect to the applicable phase of the Public Plaza. If the Developer transfers a fee simple interest in a phase of the Public Plaza to the City within the one (1) year period, and the Developer's general contractor is responsible for the one (1) year warranty, then the Developer shall provide an assignment of the warranty in a form reasonably satisfactory to the City for the remainder of the one (1) year period.

4.3.5 Non-liability of the City. The City shall not be liable for any work performed or to be performed on the Public Plaza for the Developer or for any materials, supplies or equipment furnished or to be furnished to the Developer, and no construction or other liens for such labor, services, materials, supplies or equipment shall attach to any property owned by the City. No part of the cost of construction of the Public Plaza shall ever become an obligation of the City. The Developer shall cause to be included in the general contractor construction contract(s), and shall post on the Property, a notice that the City is not liable for the payment of any costs associated with the construction of the Public Plaza.

4.3.6 Construction Observation and Inspections. The Public Plaza land, over which the City will be granted a perpetual non-exclusive easement pursuant to this Agreement, and the Public Plaza Improvements located thereon, shall be inspected by a City inspector per applicable City Codes and Laws including Building Codes, Public Works Standards, Public Works Pre-approved Plans, and Public Works Specifications.

4.3.7 Substantial Completion of Public Plaza. The Developer shall provide written certification of Substantial Completion to the City. The City shall have thirty (30) days after receipt of the certification to notify the Developer that it accepts or rejects the applicable phase of the Public Plaza, and Public Plaza Improvements located thereon, completed by Developer or the applicable phase of the Public Plaza, and Public Plaza Improvements located thereon, shall be conclusively deemed accepted. In the event of rejection, the City shall specify the basis for the decision and the Parties shall timely, diligently, and in good faith, attempt to resolve the matter expeditiously. If the dispute cannot be resolved, then it shall be submitted to Dispute Resolution in accordance with Article XVII. In the event that the person or entity

presiding over the last step in the Dispute Resolution process, whether by mediation, arbitration or litigation, determines that a Party “substantially prevails” in the Dispute Resolution, then the Party shall be entitled to recover its reasonable attorneys’ fees and costs. In the event that the Developer is the substantially prevailing party, then Developer shall also be entitled to recover its damages relating to any delay in acceptance by the City.

4.4 Easement Over Public Plaza Land. A perpetual non-exclusive easement over the land comprising that portion of the Public Plaza in Phase 1 or Phase 2 shall be granted by the Developer to the City in accordance with Article VII of this Agreement. VTL and the City shall diligently attempt to mutually agree upon the form of perpetual non-exclusive easement within ninety (90) days after this Agreement is approved by the City. The form of the easement will include, without limitation (1) a grant by VTL to the City of a perpetual non-exclusive easement over the Public Plaza; (2) a reservation of rights in favor of Developer, and covenants, conditions and restrictions generally in the form attached hereto as **Exhibit E**; (3) rules and regulations for the governance and management of the Public Plaza, including permitted and prohibited uses and activities consistent with this Agreement and taking into consideration relevant provisions of the City’s Park Rules, Chapter 11.80 KMC; (4) use of the Public Plaza for events authorized by the City and Developer incorporating the provisions of Section 4.8; (5) restrictions on assignment of the easement, or transfer or conveyance of the Public Plaza incorporating the provisions of Section 4.9; (6) maintenance responsibilities of the Developer and the City relating to the Public Plaza incorporating the provisions of Section 4.5.1 and Section 4.5.2; (7) insurance requirements incorporating the provisions of Section 4.6; (8) maintenance dispute resolution arrangements incorporating Section 4.7 and the Dispute Resolution provisions of Article XVII; (9) identification of the location of private kiosks, pavilions, outdoor dining areas and similar activities within the Public Plaza; and (10) future cooperative arrangements in the event that the Property is no longer used as a Shopping Mall and repurposed for another use, including (a) an option or right of first refusal, as agreed upon, granted to the Developer to purchase back from the City or terminate the perpetual non-exclusive easement in consideration of payment of fair market value to the City; and (b) good faith commitment by the City that if the Developer requests changes, modifications and alterations to the Public Plaza to facilitate the repurposed use(s), that the City will exercise good faith, reasonably cooperate with the Developer, and approval or consent to the requested changes, modifications and alterations shall not be unreasonably delayed, denied or withheld.

4.5 Maintenance of the Public Plaza.

4.5.1 Maintenance by Developer. Except as otherwise set forth in this Section 4.5.1, for the longer of twenty-five (25) years or so long as the Property is used as a Shopping Mall, the Developer shall, at its sole cost and expense, be responsible for the maintenance, repair and replacement of the Public Plaza and its amenities at the standards observed by owners of first-class urban regional open-air shopping malls for plazas within such facilities in the Pacific Northwest. Notwithstanding the previous sentence, if major capital expenditures are required to maintain, repair or replace all or a portion of the Public Plaza or its amenities, VTL may request the consent of the City to substitute an alternative amenity or otherwise modify the Public Plaza Improvements, which consent will not be unreasonably withheld if the alternative

provides substantially the same public benefit. All sidewalks, walkways, and other pedestrian surfaces shall be kept and maintained in a good, safe and clean condition. Snow, ice, surface water, debris, filth, and refuse shall be removed as soon as reasonably practicable. Streets within the Public Plaza shall be maintained at least in accordance with the City's applicable standards for maintaining streets in retail and commercial areas of the city of Kirkland. Street lights within the Public Plaza shall be promptly replaced when necessary. Routine maintenance and replacement shall be provided to all furnishings including benches, garbage receptacles, landscaping containers, fountains and artwork. Grass shall be periodically mowed. All areas shall be kept clean and free from graffiti, and any graffiti shall be removed and the surface restored to its condition prior to the application of the graffiti as part of routine maintenance. All landscaping shall be maintained, irrigated and replaced; irrigation systems shall be kept in good repair; and plantings shall be maintained. VTL and the City shall diligently attempt to mutually agree upon a maintenance responsibility matrix for the Public Plaza and other improvements within the Project that VTL will be maintaining pursuant to this Agreement within ninety (90) days after this Agreement is approved by the City.

4.5.2 Maintenance by City. In the event that the City conducts any public events on the Public Plaza pursuant to Section 4.8, then the City shall be responsible, at its sole cost and expense, for all maintenance and repairs directly related to such use, consistent with the requirements of Section 4.5.1.

4.6 Insurance. The Developer shall obtain a Comprehensive General Liability insurance policy with broad form liability and property damage endorsement providing coverage against claims for bodily injury, death, or property damage relating to the Public Plaza maintenance obligations of Developer under Section 4.5.1. Such insurance policy shall have combined single limits of no less than \$5,000,000.00 per occurrence and aggregate and shall name the City as an additional insured to the extent of any claims arising out of, or relating to, maintenance obligations of Developer. In addition, Developer agrees to provide to the City a certificate of insurance with an endorsement to the insurance policy prohibiting cancellation or modification in coverage without the insurer first providing to the City thirty (30) days' prior written notice of such proposed action. The Developer may, at its sole discretion, obtain one Comprehensive General Liability Insurance Policy providing coverage for all land to be dedicated to the City, or conveyed by granting perpetual non-exclusive easements for public use, that is required to be maintained by Developer.

4.7 Dispute Resolution. In the event of any dispute between the Parties arising out of, or relating to, the provisions of this Article IV, then the matter shall be submitted for resolution consistent with the Dispute Resolution provisions of Article XVII.

4.8 Use of Public Plaza/Events.

4.8.1 Use of Public Plaza/Events. Consistent with use of the Public Plaza as a public space, the City and the general public shall have use of the Public Plaza, subject to the reserved rights of Developer, use covenants, conditions and restrictions set forth in **Exhibit E**; rules, regulations, policies and procedures for events adopted by the liaisons as set forth in Section

4.8.4 below; and any reserved rights, covenants, restrictions or limitations contained within the perpetual non-exclusive easement to be granted to the City over the Public Plaza. The Public Plaza will remain property available for public use for so long as the perpetual non-exclusive easement remains in effect. There shall only be one event on any given day on the Public Plaza; provided, however, that if an event will only be taking place on the Phase 1 or Phase 2 Public Plaza, then reasonable consideration will be given to allow an additional event to occur on the other Phase of the Public Plaza as long as the events will not conflict and reasonable accommodations can be made.

4.8.2 City Authorized Events. The City shall have the right to authorize up to twelve (12) events on the Public Plaza each year ("City authorized event(s)"). Unless mutually agreed between the City and Developer, each City authorized event shall be no longer than three (3) consecutive days in duration. City authorized events are limited to events that will not result in a breach under any of the Developer's leases with its tenants; provided, however, that in the event the City requests, or desires to authorize, an event that one or both of the liaisons reasonably believe in good faith may breach a tenant lease, then upon a City request the Developer shall reasonably and in good faith attempt to accommodate the City request by seeking to obtain consent from the conflicted tenant to conduct the event. City authorized events shall (1) require a permit under Chapter 19.24 or Chapter 19.04 KMC, as may be amended, replaced or modified from time-to-time ("Chapters 19.24 and 19.04 KMC"); and (2) each event for which a permit is authorized or issued by the City pursuant to Chapters 19.24 and/or 19.04 KMC for an event on the Public Plaza, except Developer sponsored events that require such a permit, shall be deemed one of the twelve (12) annual City authorized events. As a general policy, City authorized events on the Public Plaza should be scheduled at least one hundred twenty (120) days before the event. The City shall have priority for scheduling events during July and August.

4.8.3 Developer Authorized Events. Subject to the rights of the City set forth in Section 4.8.2, the Developer shall have the right to authorize as many additional privately sponsored events as deemed desirable by Developer ("Developer authorized events"). Developer authorized events shall be allowed without regard to Chapters 19.24 and 19.04 KMC; except that if the event will require use of a City street, excluding pedestrian crosswalks and established parking spaces along City streets associated with use of the Property, or closure of any City streets to facilitate the event, then Developer must obtain the applicable City permit. Notwithstanding anything to the contrary, sidewalk sales, outdoor dining areas, kiosks, pavilions or similar structures (of a permanent or temporary nature) vending food, beverages, goods or services, signage, displays and similar activities adjacent to retail spaces adjoining, or located on, the Public Plaza by the Developer, or its tenants, consistent with Developer's reserved rights set forth in **Exhibit E**, shall not constitute an event under this Section 4.8 and shall be authorized without regard to Chapters 19.24 and 19.04 KMC. The Developer shall have priority for scheduling events during November and December. Developer authorized events shall be available to the general public, subject to: available space; health and safety concerns; reasonable Developer conditions, such as charging entry or event ticket fees; maximum attendance limits; and age restrictions at appropriate events (such as no minors). Any private events on the Public Plaza by the Developer, meaning events sponsored by Developer that are not open to the general public, shall require the prior approval of the City, which approval shall not be unreasonably delayed, denied or withheld.

4.8.4 Appointment and Responsibilities of Liaisons. The City and the Developer shall each designate and appoint one (1) representative from time-to-time to serve as the Party's liaison with regard to matters involving the Public Plaza. Each Party shall appoint its liaison within ninety (90) days after City approval of this Agreement. The liaisons shall have the following duties and responsibilities:

4.8.4.1 Event Rules, Regulations, Guidelines, Policies and Procedures. The liaisons shall meet within thirty (30) days after the date that both liaisons are appointed to commence discussions and ultimately adopt mutually agreeable event rules, regulations, guidelines, policies and procedures ("Rules and Regulations") governing authorized events on the Public Plaza in order to protect the public and private property; businesses; tenants and health, safety and welfare interests of the City and the Developer. The liaisons shall reasonably endeavor to agree upon and adopt the Rules and Regulations within ninety (90) days after the date both liaisons are appointed. No events shall be approved or take place on the Public Plaza until adoption of the Rules and Regulations. The Rules and Regulations shall include, without limitation, provisions addressing the following: (1) the event boundaries within the Public Plaza, taking into consideration the reserved rights of Developer and tenants; (2) event hours of operation; (3) health, safety and security requirements, including provision of sanitation services/facilities, medical services and law enforcement or security personnel; (4) traffic controls, parking, vehicle staging areas, street closure and vehicle routing for events; (5) any special time, place and manner considerations governing expressive activity events, such as demonstrations, rallies and marches; (6) required meetings, site visits and supervision by an event sponsor; (7) conditions and restrictions on the sale or use of alcoholic beverages (such as beer and wine gardens) and for control or regulation of vendors related to sales at the event; (8) insurance requirements for an event; (9) accommodation of Developer and tenant rights on the Public Plaza, including outdoor dining, kiosks, pavilions or similar structures vending food, beverages, goods or services to avoid conflicts; (10) timelines for scheduling events; (11) application and processing procedures for events; (12) reasonable reasons for denying an event; (13) preconditions that must be met by the event sponsor prior to the event; and (14) process for amending the Rules and Regulations.

4.8.4.2 Scheduling Events. Upon adopting the Rules and Regulations, the liaisons shall meet as deemed necessary to address any issues associated with the Public Plaza, including, but not limited to, maintenance and coordination of events on the Public Plaza consistent with this Agreement. Event scheduling shall require the written concurrence of each Party's liaison to avoid any potential conflicts and ensure that the event will comply with the Rules and Regulations for the Public Plaza. The written concurrence of each Party's liaison shall be obtained prior to City issuance of any permits under Chapters 19.24 and 19.04 KMC. Prior to the end of a calendar year, the liaisons shall endeavor to prepare a preliminary schedule of events for the next calendar year.

4.8.5 Indemnification by the City. To the maximum extent permitted by law, the City agrees to and shall indemnify and hold the Developer harmless from and against all liability, loss, damage, cost, or expenses (including reasonable attorneys' fees and court costs, amounts paid in settlements, and judgment) arising from or as a result of the death of any person or of any accident, injury, loss, or damage whatsoever caused to any person, the Developer's

Property or to the property of any person which shall be directly or indirectly caused by the intentional acts, omissions or negligence of the City, or its servants, employees, officials or agents in conjunction with a City authorized event. The City shall not be responsible for (and such indemnity shall not apply to) the intentional acts, omissions or negligence of the Developer or its respective officers, directors, servants, employees, agents or tenants.

4.8.6 Indemnification by the Developer. To the maximum extent permitted by law, the Developer agrees to and shall indemnify and hold the City harmless from and against all liability, loss, damage, cost, or expenses (including reasonable attorneys' fees and court costs, amounts paid in settlements, and judgment) arising from or as a result of the death of any person or of any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person which shall be directly or indirectly caused by the intentional acts, omissions or negligence of the Developer, or its servants, employees, officers, directors or agents in conjunction with a Developer authorized event. The Developer shall not be responsible for (and such indemnity shall not apply to) the intentional acts, omissions or negligence of Developer's tenants or the City or its respective officials, servants, employees or agents.

4.9 Transfer of Public Plaza Property Interests. The Parties understand and agree that the Public Plaza is strategically located within the Mall and, even though it will be available for public use, both the City and the Developer have an interest in ensuring that future use is consistent with this Agreement for the duration of the perpetual non-exclusive easement granted to the City on the Public Plaza. The City shall not assign, convey, lease or otherwise transfer any of its perpetual non-exclusive easement rights on the Public Plaza land, in whole or in part, whether voluntary or involuntary to any person, entity or municipality other than (1) a governmental entity or municipality for public plaza purposes consistent with this Agreement and the perpetual non-exclusive easement to be granted to the City by the Developer; or (2) to any other person or entity, subject to the prior written consent of the Developer, which consent may be granted or withheld at the sole discretion on the Developer (collectively, the "City Permitted Transferee(s)"). The City shall ensure that any subsequent assignment, conveyance or other transfer of any of its perpetual non-exclusive easement rights on the Public Plaza land to any City Permitted Transferee will require the assumption by the City Permitted Transferee of all obligations of the City related to the Public Plaza under this Agreement and the perpetual non-exclusive easement to be granted to the City. The Developer shall not convey or otherwise transfer the Public Plaza, including Public Plaza Improvements and land therein, in whole or in part, whether voluntarily or involuntarily, to any person, entity or municipality other than (1) a governmental entity or municipality for public plaza purposes consistent with this Agreement; (2) affiliates or subsidiaries of Developer for public plaza purposes consistent with this Agreement; (3) successors and assigns of Developer who obtain fee ownership of all, or any portion of, the Property, for purposes consistent with this Agreement; (4) a private master association to be formed whose members are private owners of land within the Project, for purposes consistent with this Agreement; or (5) to any other person or entity, subject to the prior written consent of the City, which consent may be granted or withheld at the sole discretion of the City, or its successors or assigns (collectively, the "Developer Permitted Transferee(s)"); provided, however, that Developer shall have and retain the right to lease portions of the Public Plaza, from time to time, to tenants for purposes of outdoor dining, kiosks, pavilions and similar

structures and uses within the Public Plaza, without regard to the Developer Permitted Transferee provisions in this Section 4.9, as long as the lease does not unreasonably interfere with public use of the remaining Public Plaza. Except as expressly permitted in this Section 4.9, the Developer shall ensure that any subsequent conveyance or other transfer of the Public Plaza, including Public Plaza Improvements and land therein, in whole or in part, will require the assumption by the Developer Permitted Transferee of all obligations of the Developer related to the Public Plaza under this Agreement and the perpetual non-exclusive easement to be granted to the City. The perpetual non-exclusive easement to be granted to the City shall include the provisions set forth in this Section 4.9.

ARTICLE V ADDITIONAL IMPROVEMENTS

5.1 Pedestrian Corridor to Evergreen Hospital. The Developer shall design and construct a pedestrian corridor, and improvements thereon, to the common boundary of the Property and the adjoining Evergreen Hospital property as depicted on **Exhibit B** (“Evergreen Hospital Pedestrian Corridor”) and permit public access and use of the Evergreen Hospital Pedestrian Corridor for so long as the Property is used as a Shopping Mall. The plans and specifications for the improvements shall be subject to the review and approval of the City’s Public Works Director and, in the event of a dispute, the Dispute Resolution procedures set forth in Article XVII shall apply.

5.2 Pedestrian Corridor to Madison House. The Developer shall design and construct a pedestrian corridor, and improvements thereon, to the common boundary of the Property and the adjoining Madison House property as depicted on **Exhibit B** (“Madison House Pedestrian Corridor”) and permit public access and use of the Madison House Pedestrian Corridor for so long as the Property is used as a Shopping Mall. The plans and specifications for the improvements shall be subject to the review and approval of the City’s Public Works Director and, in the event of a dispute, the Dispute Resolution procedures set forth in Article XVII shall apply.

5.3 Totem Lake Boulevard Bicycle/Pedestrian Lanes. The Developer shall design and construct bicycle/pedestrian lanes, ten feet (10’) in width, along the Property abutting the east side of Totem Lake Boulevard (“Bicycle/Pedestrian Lanes”). In addition, Developer shall install pedestrian lighting spaced at seventy feet (70’) on-center adjacent to the Bicycle/Pedestrian Lanes along the Totem Lake Boulevard. The land over which the Bicycle/Pedestrian Lanes will be constructed is shown on **Exhibit B**. The Bicycle/Pedestrian Lanes, pedestrian lighting, and associated land, are Acquired Property and will be dedicated to the City in consideration of payment of the Actual Cost of improvements and the appraised value of the land along Totem Lake Boulevard. The appraised value of the land has been projected to the time of payment by an appraisal approved by the City and the Developer immediately prior to execution of this Agreement. The plans and specifications for the improvements shall be subject to the review and approval of the City’s Public Works Director and, in the event of a dispute, the Dispute Resolution procedures set forth in Article XVII shall apply.

5.4 Traffic Improvements. The Developer and the City entered into a Traffic Improvements Agreement on January 10, 2017 (“Traffic Improvements Agreement”), a copy of which is attached hereto as **Exhibit C**, pursuant to which the Developer will construct, install, relocate or provide, as applicable, the following additional traffic improvements: (1) a traffic signal at the intersection of 120th Avenue NE/Totem Lake Way; (2) a traffic signal at the intersection of Totem Lake Boulevard/NE Village Plaza; (3) a Rectangular Rapid Flashing Beacon (“RRFB”) at the intersection of 120th Avenue NE/NE Village Plaza; (4) C-curbing (restricted right-in/right-out) within 120th Avenue NE in front of the O’Reilly Auto Parts/Bank of America driveway; (5) a relocated driveway (to the extent located within the 120th Avenue NE right-of-way) for the property adjacent to the northern boundary in Phase 1, which will be relocated further north along the west side of 120th Avenue NE to align with the DeYoung Pavilion’s driveway; (6) conduit, foundation(s) and junction boxes to accommodate a potential future traffic signal at the northerly driveway of Phase 1 along 120th Avenue NE; and (7) evaluation of the level of service at the 120th Avenue NE/NE 128th Street intersection when the entire residential portion of the Project has at least 85% occupancy and, if warranted, signal improvement will be implemented in accordance with the provisions of the Traffic Improvements Agreement (collectively, the “Traffic Improvements”). The plans and specifications for the Traffic Improvements shall be subject to the review and approval of the City’s Public Works Director, and in the event of a dispute, the Dispute Resolution procedures set forth in Article XVII shall apply. The City will accept ownership, at no cost to the City, of all the Traffic Improvements located within City rights-of-way, or on private land over which easements have been granted for placement of the Traffic Improvements, upon completion of construction and/or installation (including any signal improvement at the 120th Avenue NE/NE 128th Street intersection if subsequently deemed warranted).

5.5 Totem Lake Way Dedication. The Developer will improve and dedicate to the City land adjacent to Totem Lake Way as shown on **Exhibit B** attached hereto. The land will be Acquired Property and conveyed to the City in consideration of payment of Actual Costs of improvements and the appraised value of the land in accordance with Exhibit H. The appraised value of the land has been projected to the time of payment by an appraisal approved by the City and the Developer immediately prior to execution of this Agreement.

5.6 Maintenance of Pedestrian Corridors and Bicycle/Pedestrian Lanes. For the longer of twenty-five (25) years or so long as the Property is used as a Shopping Mall, the Developer shall, at its sole cost and expense, maintain the Evergreen Hospital Pedestrian Corridor described in Section 5.1 and the Madison House Pedestrian Corridor described in Section 5.2 (collectively, the “Pedestrian Corridors”) and the Totem Lake Boulevard Bicycle/Pedestrian Lanes described in Section 5.3; provided, however, that the City will maintain the pedestrian lighting along Totem Lake Boulevard right-of-way. All sidewalks, walkways, and other pedestrian surfaces shall be kept and maintained in a good, safe and clean condition. Snow, ice, surface water, debris, filth, and refuse shall be removed as soon as reasonably practicable. Lights within the Pedestrian Corridors, if any, shall be promptly replaced when necessary. Routine maintenance and replacement shall be provided to all furnishings including stairways, trails, benches, garbage receptacles and landscaping containers. Grass, if any, shall be periodically mowed. All areas shall be kept clean and free from graffiti, and any graffiti shall be removed and the surface restored to its condition prior to the application of the graffiti as part of routine maintenance. All landscaping

shall be maintained, irrigated and replaced; irrigation systems, if any, shall be kept in good repair; and plantings shall be maintained. The maintenance responsibility of the Developer is limited to routine maintenance. In accordance with Section 4.5.1, VTL and the City shall diligently attempt to mutually agree upon a maintenance matrix within ninety (90) days after this Agreement is approved by the City. In the event that the City concludes that the Developer has failed to maintain, repair, replace or improve the Pedestrian Corridors or the Bicycle/Pedestrian Lanes in accordance with this Agreement, then the matter shall be submitted for resolution consistent with the Dispute Resolution provisions of Article XVII.

5.7 **Insurance.** The Developer shall obtain a Comprehensive General Liability insurance policy with broad form liability and property damage endorsement, providing coverage against claims for bodily injury, death, or property damage relating to the maintenance obligations of Developer under Section 5.6. Such insurance to have combined single limits of no less than \$5,000,000.00 per occurrence and aggregate and shall name the City as an additional insured to the extent of any claims arising out of, or relating to, maintenance obligations of Developer. In addition, Developer agrees to provide to the City a certificate of insurance with an endorsement to the insurance policy prohibiting cancellation or modification in coverage without the insurer first providing to the City thirty (30) days' prior written notice of such proposed action. The Developer may, at its sole discretion, obtain one Comprehensive General Liability Insurance Policy providing coverage for all land to be dedicated to the City, or conveyed by granting a perpetual non-exclusive easement to the City, that is required to be maintained by Developer.

5.8 **Work Standards Applicable to Traffic Improvements within 120th Avenue NE and Totem Lake Boulevard Rights-of-Way.** Any work associated with the Traffic Improvements that will be undertaken within the 120th Avenue NE or Totem Lake Boulevard rights-of-way shall comply with the applicable work standards set forth in Article VI, Section 6.4 relating to (1) compliance with laws; (2) permits; (3) construction warranty; (4) non-liability of the City; (5) construction observation and inspections; and (6) prevailing wages.

5.9 **Work Standards Applicable to Other Additional Improvements.** All remaining work associated with the Additional Improvements that will be undertaken on the Property shall comply with the applicable Public Plaza work standards set forth in Article IV, Sections 4.3.2 through Section 4.3.6 relating to (1) compliance with laws; (2) permits; (3) construction warranty; (4) non-liability of the City; and (5) construction observations and inspections.

5.10 **Transfer of Additional Improvements and Related Land.** Transfer of the (1) Bicycle/Pedestrian Lanes, including improvements and associated land and (2) the land, including improvements, along Totem Lake Way to be dedicated to the City will occur in either Phase 1 or Phase 2 of the Project, as applicable, and will be subject to Closing in accordance with Article VII of this Agreement. The Traffic Improvements, to the extent any conveyance is required, will be conveyed to the City upon Substantial Completion and acceptance by the City.

ARTICLE VI
120th AVENUE NE IMPROVEMENTS

6.1 Preparation and Approval of Plans and Specifications.

6.1.1 Preparation of 120th Avenue NE Plans and Specifications. The 120th Avenue NE Improvements include the improvements within the 120th Avenue NE right-of-way, and work adjacent thereto on the Property, including hardscapes/sidewalks and other improvements, on land to be dedicated to the City. The Developer shall prepare plans and specifications for the 120th Avenue NE Improvements for City approval, which plans and specifications shall be in accordance with this Agreement and generally consistent with the 120th Avenue NE Design Standards set forth in **Exhibit D** (“120th Avenue NE Plans and Specifications”). The 120th Avenue NE Improvements shall include rebuilding 120th Avenue NE; sidewalks, curbs, gutters, street lighting and other improvements; utilities work; the Traffic Improvements set forth in the Traffic Improvement Agreement applicable to 120th Avenue NE; and the dedication of land along 120th Avenue NE to the City as shown on **Exhibit B**.

6.1.2 Street and Utility Improvement Permit Approval. VTL has applied for a Land Surface Modification (“LSM”) permit to install the required 120th Avenue NE street and utility improvements. Prior to construction of the required street and utility improvements, VTL shall have an issued LSM permit as required by Kirkland Municipal Code Chapter 29. Subsequent VTL or City requested revisions to the street and utility improvement shall be reviewed and approved as a revision to an existing issued LSM, issued under a new LSM, or issued under a Public Works Right-of-Way Permit per Chapter 19 of the Kirkland Zoning Code.

6.2 Modifications to 120th Avenue NE Plans and Specifications. Prior to issuance of any LSM permit to install street and utility improvements in 120th Avenue NE or during construction of said improvements, if mutually agreed in writing by the City and VTL, the City may request changes or additions to the proposed 120th Avenue NE Improvements; provided, however, that such changes or additions requested shall not materially delay commencement of the work and the City agrees to pay for such requested changes or additions.

6.3 Construction; Schedule. The 120th Avenue NE Improvements shall be constructed generally in conjunction with Phase 1 of the Project; provided, however, that the hardscapes/sidewalks and other improvements on the east side of 120th Avenue NE shall be constructed in conjunction with Phase 2 to avoid damage to these improvements during building construction in Phase 2 along the east side of 120th Avenue NE. The City shall cooperate with the Developer with regard to scheduling and construction of the 120th Avenue NE Improvements.

6.4 Work Standards. The Work standards set forth in this Section 6.4 shall only apply to the 120th Avenue NE Improvements, which includes sidewalks on both sides of 120th Avenue NE, and the Traffic Improvements within the 120th Avenue NE and Totem Lake Boulevard rights-of-way.

6.4.1 Performance and Payment Bond. Because this is a private project, the Developer shall not be required to provide, nor be required to have the general contractor or any subcontractors provide, a performance and/or payment bond associated with the 120th Avenue NE Improvements. The City shall not be liable for any work performed or to be performed in conjunction with the 120th Avenue NE Improvements for the Developer or for any materials, supplies or equipment furnished or to be furnished to the Developer, and no construction or other liens for such labor, services, materials, supplies or equipment shall attach to any property owned by the City. No part of the cost of construction of the 120th Avenue NE Improvements shall ever become an obligation of the City. The Developer shall cause to be included in the general contractor construction contract(s), and shall post on the Property, a notice that the City is not liable for the payment of any costs associated with the construction of the 120th Avenue NE Improvements.

6.4.2 Insurance and Indemnification.

6.4.2.1 Insurance. The Developer shall provide the insurance policies and coverages set forth in Section 13.1.

6.4.2.2 Indemnification of the City. To the maximum extent permitted by law, the Developer agrees to and shall indemnify and hold the City harmless from and against all liability, loss, damage, cost, or expenses (including reasonable attorneys' fees and court costs, amounts paid in settlements, and judgment) arising from or as a result of the death of any person or of any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the 120th Avenue NE right-of-way and which shall be directly or indirectly caused by the intentional or negligent acts, errors, or omissions of the Developer or its servants, employees, officers, agents or contractors in conjunction with the work associated with the 120th Avenue NE Improvements. The Developer shall not be responsible for (and such indemnity shall not apply to) the negligence of the City or its respective officials, servants, employees, or officers.

6.4.2.3 Indemnification of the Developer. To the maximum extent permitted by law, the City agrees to and shall indemnify and hold the Developer harmless from and against all liability, loss, damage, cost, or expenses (including reasonable attorneys' fees and court costs, amounts paid in settlements, and judgment) arising from or as a result of the death of any person or of any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the 120th Avenue NE right-of-way and which shall be directly or indirectly caused by the intentional or negligent acts, errors, or omissions of the City or its officials, servants, employees, officers or contractors in conjunction with the work associated with the 120th Avenue NE Improvements. The City shall not be responsible for (and such indemnity shall not apply to) the negligence of the Developer or its servants, employees, officers, agents or contractors.

6.4.2.4 Limitation on Indemnification. Notwithstanding the above, with respect to matters that are within the scope of RCW 4.24.115, relating to construction project indemnity, the Parties shall not be entitled to indemnification for damages arising out of bodily

injury to persons or damage to property by reason of or caused by the concurrent negligence of the City and the Developer, or their respective agents, officials, servants, employees, officers or contractors, to the extent of the indemnitee's negligence, and the Parties specifically waive immunity under Title 51 RCW, and application of the Public Duty Doctrine, to this extent.

6.4.3 Permits and Approvals. The Developer shall be responsible for providing, obtaining and paying for all required federal, state and local government permits and approvals for the 120th Avenue NE Improvements.

6.4.4 Prevailing Wages. Even though the 120th Avenue NE Improvements are a private project related to the redevelopment of the Mall, the Parties have agreed that Developer will pay or cause to be paid prevailing wages on the following: All 120th Avenue NE Improvements, which includes sidewalks on both sides of 120th Avenue NE and the Traffic Improvements within the 120th Avenue NE and Totem Lake Boulevard rights-of-way ("Prevailing Wages Work"). Developer shall not be required to pay prevailing wages for any of the other development or construction work that will occur on the Property. Accordingly, the Developer shall pay or cause to be paid to all workers, laborers and mechanics employed to perform the construction, alteration, improvement or repair of the Prevailing Wages Work not less than the prevailing rates of wages, as may then be determined by the Washington State Department of Labor and Industries, for the particular craft in the particular geographic area. Upon Substantial Completion of the Prevailing Wages Work, Developer shall cause its general contractor to provide written certification to the City Finance and Administration Director that prevailing wages were actually paid.

6.4.5 Construction Observation and Inspections. All improvements associated with the 120th Avenue NE Improvements shall be inspected by a City inspector per applicable City Codes and Laws including applicable Building Codes, Public Works Standards, Public Works Pre-approved Plans, and Public Works Specifications.

6.4.6 Construction Warranty. The Developer's general contractor, pursuant to the construction contract(s) for the 120th Avenue NE Improvements, or the Developer, at the Developer's option, shall for one (1) year after Substantial Completion of each segment of the 120th Avenue NE Improvements, correct and repair any material defects appearing or developing in the workmanship or materials furnished in respect to the applicable segment of the 120th Avenue NE Improvements. Upon receiving written notice from the City of such defect or nonconforming work, the Developer or Developer's general contractor, as applicable, shall promptly, at its own cost and expense, correct, or cause to be corrected, any such defect or cause to be made such repairs or alterations as shall be necessary to conform the applicable phase of the 120th Avenue NE Improvements to the approved 120th Avenue NE Plans and Specifications. The City shall cooperate with the Developer with regard to scheduling any corrective work associated with the 120th Avenue NE Improvements. If the Developer fails to proceed promptly, or after proceeding, fails to continue with reasonable diligence to cure such defect or repair such nonconforming work, then the matter shall be submitted for resolution consistent with the Dispute Resolution provisions of Article XVII.

6.5 Substantial Completion of 120th Avenue NE Improvements. The Developer shall provide written certification to the City of Substantial Completion for each phase of the 120th Avenue NE Improvements. The City shall have fourteen (14) days after receipt of the certification to notify the Developer in writing that it accepts or rejects the applicable phase of the 120th Avenue NE Improvements or the applicable phase of the 120th Avenue NE Improvements shall be conclusively deemed accepted. In the event of rejection, the City shall specify the basis for the decision and the Parties shall timely, diligently, and in good faith, attempt to resolve the matter expeditiously. If the dispute cannot be resolved, then it shall be submitted to Dispute Resolution in accordance with Article XVII. In the event that the person or entity presiding over the last step in the Dispute Resolution process, whether by mediation, arbitration or litigation, determines that a Party “substantially prevails” in the Dispute Resolution, that Party shall be entitled to recover its reasonable attorneys’ fees and costs. In the event that the Developer is the substantially prevailing party, then Developer shall also be entitled to recover its damages relating to any delay in acceptance by the City.

6.6 Maintenance of 120th Avenue NE. The City shall, at its sole cost and expense, maintain, repair and replace the vehicular portions of the 120th Avenue NE right-of-way (curb to curb), all traffic and pedestrian signalization and signage, including the RRFB, and street lighting along 120th Avenue NE, including street lighting to be selected and installed by Developer, in accordance with its applicable standards for maintaining and repairing City streets and roadways in retail and commercial areas in the city of Kirkland; providing, however, that for the longer of twenty-five (25) years or so long as the Property is used as a Shopping Mall, Developer will provide the City with one spare light standard that matches the light standards installed along 120th Avenue NE. When it is necessary for the City to use a spare light standard, it will contact Developer and request a replacement and Developer shall provide the replacement promptly. For the longer of twenty-five (25) years or as long as the Property is used as a Shopping Mall, and except as otherwise provided in this Section 6.6 associated with City maintenance, the Developer shall maintain the remaining components of the 120th Avenue NE Improvements from curb to the face of buildings, which is composed primarily of sidewalks, bicycle lanes, and pedestrian areas in accordance with the same maintenance standards as are applicable to the Public Plaza in Section 4.5.1. In accordance with Section 4.5.1, VTL and the City shall diligently attempt to mutually agree upon a maintenance responsibility matrix within ninety (90) days after this Agreement is approved by the City. In the event that either Party concludes that the other Party has failed to maintain, repair, replace or improve the 120th Avenue NE Improvements in accordance with this Agreement, then the matter shall be submitted for resolution consistent with the Dispute Resolution provisions of Article XVII. In the event that the person or entity presiding over the last step in the Dispute Resolution process, whether by mediation, arbitration or litigation, determines that a Party “substantially prevails” in the dispute, that Party shall be entitled to recover its reasonable attorneys’ fees and costs associated therewith.

6.7 Insurance. The Developer shall obtain a Comprehensive General Liability insurance policy with broad form liability and property damage endorsement, providing coverage against claims for bodily injury, death, or property damage relating to the maintenance obligations of Developer under Section 6.6 on land dedicated to the City along 120th Avenue NE. Such insurance to have combined single limits of no less than \$5,000,000.00 per occurrence and

aggregate, and the Developer shall name the City as an “additional insured” to the extent of any claims arising out of, or relating to, maintenance obligations of Developer. In addition, Developer agrees to provide to the City a certificate of insurance with an endorsement to the insurance policy prohibiting cancellation or modification in coverage without the insurer first providing to the City thirty (30) days’ prior written notice of such proposed action. The Developer may, at its sole discretion, obtain one Comprehensive General Liability Insurance Policy providing coverage for all land to be dedicated to the City, or conveyed by granting perpetual non-exclusive easements for public use, that is required to be maintained by Developer.

6.8 **Relocation of Utilities in 120th Avenue NE.** The 120th Avenue NE Improvements will include the relocation of Utilities including, without limitation, stormwater conveyance utilities and Franchise Utilities, in accordance with the 120th Avenue NE Plans and Specifications. The City will assist with coordination and arrangements for temporary disruption, if any, and relocation of any utilities.

6.9 **Payment of Acquisition Amount Associated with a Portion of the 120th Avenue NE Improvements.** That portion of the 120th Avenue NE Improvements, and land, located on the Property to the west and east of the 120th Avenue NE right-of-way as shown on **Exhibit B** will be Acquired Property and will be dedicated to the City in consideration of payment of the Actual Cost of improvements and the appraised value of the land. Transfer of the land and improvements to the City, and payment of the Acquisition Amount therefor, shall occur partially in the Phase 1 Transaction and partially in the Phase 2 Transaction, as applicable, and will be Closed in accordance with Article VII of this Agreement.

6.10 **Signage.** VTL shall be allowed to erect private signage within the City rights-of-way adjacent to the Project in a manner consistent with this Agreement and consistent with an approved Master Sign Plan, which approval shall not be unreasonably delayed, denied or withheld.

ARTICLE VII PHASING AND TRANSACTIONS ASSOCIATED WITH CITY FINANCIAL PARTICIPATION

7.1 **Phasing.** The Project will be developed in two (2) phases. Phase 1 will include the following Acquired Property and Vehicular/Pedestrian Access Improvements: (1) Phase 1 Public Plaza Improvements; (2) the Additional Improvements set forth and described in Article V that are located west of, or within, 120th Avenue NE; (3) that portion of the 120th Avenue NE Improvements comprising the street improvements, signalization, sidewalks/hardscapes and other improvements located on the west side of 120th Avenue NE; and (4) grant of a perpetual non-exclusive easement to the City over land associated with the Phase 1 Public Plaza, and dedication of land to the City associated with the Bicycle/Pedestrian Lanes and west side of 120th Avenue NE as shown on **Exhibit B**. Phase 2 will include the following Acquired Property and Vehicular/Pedestrian Access Improvements: (1) Phase 2 Public Plaza Improvements; (2) the Additional Improvements set forth and described in Article V that are located east of the 120th Avenue NE; (3) that portion of the 120th Avenue NE Improvements comprising

hardscapes/sidewalks and other improvements east of the 120th Avenue NE right-of-way on land to be dedicated to the City; and (4) grant of a perpetual non-exclusive easement to the City over land associated with the Phase 2 Public Plaza, and dedication of the land on the east side of the 120th Avenue NE right-of-way and along the north side of Totem Lake Way as shown on **Exhibit B**. With regard to the Acquired Property, Phase 1 and Phase 2 will each have a separate transaction for closing the conveyance of improvements and land to the City and payment of the Acquisition Amounts to Developer. These will be referred to in this Article VII as the “Phase 1 Transaction” and the “Phase 2 Transaction,” and individually may be referred to as a “Transaction” or collectively as the “Transactions.”

7.2 **Conveyance of Acquired Property.** On the Acquisition Dates described in Section 7.3 below and upon (1) payment by the City of the applicable Acquisition Amounts, defined in Section 7.4 below; and (2) the delivery of all items to be delivered by the City pursuant to Section 7.8 below the Developer agrees to transfer to the City all of Developer’s right, title and interest in and to the Acquired Property associated with Phase 1 or Phase 2, except for the Public Plaza Improvements, which will remain in Developer’s ownership but subject to the right of public use for so long as the Property is used as a Shopping Mall, as follows:

7.2.1 **Improvements.** Any improvements comprising Acquired Property in the Transactions that are not fixtures shall be conveyed by Bill of Sale from the Developer to the City.

7.2.2 **Dedication.** Prior to Closing of each Transaction, the Developer shall cause a survey to be performed of all land in Phase 1 or Phase 2, as applicable, to be conveyed to the City by dedication or grant of perpetual non-exclusive easement, which survey shall calculate the total square footage of land to be conveyed to the City. Confirmation of the square footage of land conveyed to the City shall be mutually agreed upon by the City and Developer. Developer shall convey title to all land dedicated to the City in the Transactions by executing and delivering a special warranty deed which meets the requirements of this Agreement subject to (1) utility and other easements not inconsistent with the use of the land for its intended purposes; (2) all agreements, reservations, covenants, conditions and restrictions of record or which may be imposed on the land during the course of construction as a result of permits or other conditions imposed by any governmental authority as a condition to issuing a use permit, building permit or any other license or approval; (3) any zoning, building, development, land use, health, or other governmental regulations or restrictions contained within statutes, ordinances, laws or regulations applicable to the land or general to the area; (4) the Reservation of Developer Rights, Covenants, Conditions and Restrictions Relating to the Public Plaza and the 120th Avenue NE Right-of-Way set forth in **Exhibit E**; (5) General Exclusions contained within the title insurance policy to be issued and other matters of record that do not materially impact the use or marketability of the land being transferred; (6) this Agreement; and (7) any liens, encumbrances, or defects created or incurred by the City after the date of this Agreement (collectively, “Permitted Exceptions”). The Developer shall cause any project lender holding a mortgage or deed of trust on the Property to execute and record a partial reconveyance of such mortgage or deed of trust as to the land being conveyed as of the Acquisition Date. The Developer shall cause the Escrow Holder to deliver an irrevocable commitment for an ALTA form standard coverage owner’s policy of title insurance

with liability in the amount of that portion of the Acquisition Amount attributed to the land dedication, insuring that upon the Acquisition Date the land dedicated will be vested in the City, subject only to the Permitted Exceptions, which title insurance policy shall, at the request of the City and at its sole cost and expense, contain an endorsement providing affirmative coverage against construction liens. The City shall pay real estate excise tax, if any, associated with dedication of land in the Transactions.

7.2.3 **Easements.** Developer shall grant a perpetual non-exclusive easement for public use associated with the Public Plaza in both Phase 1 and Phase 2. The perpetual non-exclusive easement shall be in a form mutually acceptable to the City and Developer in accordance with the provisions of Section 4.4 and **Exhibit E**. Any disputes between the Parties with regard to the form or content of the perpetual non-exclusive easement shall be submitted for resolution in accordance with the provisions of Section 4.7.

7.3 **Acquisition Dates.** Subject to the Conditions of Payment, described in Section 7.7.1, the Closings of the Phase 1 Transaction and the Phase 2 Transaction shall occur on any business day designated by the Developer, which business day shall be no earlier than sixty (60) days after Substantial Completion of the improvements comprising the Acquired Property and Vehicular/Pedestrian Access Improvements associated with each of the Transactions; provided, however, that the subsequent evaluation of the intersection of 120th Avenue NE/128th Street NE, which is a Vehicular/Pedestrian Access Improvement scheduled for completion in the future and shall not be required to be completed by the Acquisition Date(s). The business day chosen by the Developer shall be known as the Acquisition Date. Such date may be extended by the Developer if additional time is needed to satisfy conditions to Closing. The Developer will give the City at least sixty (60) days' prior written notice of the anticipated date of Substantial Completion of the improvements comprising the Acquired Property and the Vehicular/Pedestrian Access Improvements associated with each of the Transactions and the proposed Acquisition Date in order to allow the City sufficient time to arrange financing for the Acquisition Amount.

7.4 **Acquisition Amounts.** The consideration to be paid by the City associated with each of the Transactions is referred to in this Agreement as the "Acquisition Amount." The Acquisition Amount shall be based on the Actual Costs of the improvements to be constructed and installed on land to be dedicated to the City, or over which the City will be granted a perpetual non-exclusive easement (improvements on land to be dedicated will be owned by the City, and improvements on land over which the City will be granted a perpetual non-exclusive easement will be owned by the Developer, but subject to the public use thereof for so long as the City's easement associated with the Public Plaza remains in effect), and the appraisal value of the underlying land being conveyed (as projected and established by an appraisal approved by City and Developer made immediately prior to execution of this Agreement); provided, however, that except as set forth in Section 4.2 and Section 6.2 relating to changes or additions requested by the City, the combined total of the Phase 1 and Phase 2 Acquisition Amounts shall not exceed \$15,000,000.00 in accordance with Article IX. The Acquisition Amount for the Phase 1 Transaction and the Acquisition Amount for the Phase 2 Transaction shall be paid on the respective Acquisition Dates designated by the Developer in accordance with Section 7.3; provided, that except as set forth in Section 4.2 and 6.2 relating to changes or additions requested by the City,

the aggregate Acquisition Amount to be paid for the Phase 1 Transaction shall not exceed \$7,500,000.00 and any amount not paid but owing shall be remitted as part of the Phase 2 Acquisition Amount, which aggregate amount shall not exceed \$15,000,000.00 for the entire Project.

7.5 Verification of Actual Costs. Upon completion of the improvements to be installed or constructed within the Public Plaza for public use and other improvements to be dedicated to the City associated with each of the Transactions, the Developer shall provide the City an accounting of the Actual Costs associated with the improvements, in a form determined by the Developer in accordance with its standard cost accounting practices. The City shall within thirty (30) days after receipt of the notification, notify the Developer in writing whether the City accepts, denies or requests modification of the accounting; providing, however, that in the event the Developer does not receive a timely written response from the City, then the Actual Costs associated with the improvements shall be conclusively deemed accepted and approved. In the event the City refuses to accept the improvements, or denies or requests modification to the accounting, the City shall specify the basis for the decision and the Parties shall timely, diligently, and in good faith, attempt to resolve the matter expeditiously. The Parties shall resolve any dispute through the Dispute Resolution process set forth in Article XVII; provided, however, that a dispute involving accounting verification shall not delay payment or reimbursement to the Developer for the improvements. In the event that on the Acquisition Date there is yet unresolved any issues relating to Actual Costs, then the City shall pay to the Developer the Actual Costs requested by the Developer for the improvements, plus the appraised value of any land dedicated, less the amounts unresolved, which shall be placed in an interest bearing escrow set aside account designated by the Developer. The amount in dispute shall then be submitted to Dispute Resolution in accordance with Article XVII; provided, however, that in the event that the person or entity presiding over the last step in the Dispute Resolution process, whether by mediation, arbitration or litigation, determines that a party “substantially prevails” in the accounting dispute, that party shall be entitled to recover its reasonable attorneys’ fees and costs associated therewith. In the event that Developer is the substantially prevailing party, then Developer shall also be entitled to immediate disbursement of the escrow set aside, including interest accrued thereon. Upon acceptance by the City, and reimbursement to Developer of the Actual Costs associated with the improvements in accordance with Exhibit H, the Developer shall deliver to the City, if applicable, one complete set of “as built” drawings per City Pre-approved Plans and Policies.

7.6 Transaction Escrows. The closings of the Transactions (“Closing”), and delivery of all items to be delivered on the respective Acquisition Dates under the terms of this Agreement shall be made at the offices of Escrow Holder, which shall act as the escrow agent and issue the title insurance policies to be delivered in connection with the Closing.

7.7 Payment and Financing of Acquisition Amount.

7.7.1 Conditions of Payment. The City’s obligation to pay the Acquisition Amount on the Acquisition Date for the Phase 1 Transaction is subject to the Developer, and third party owners and developers, having obtained Substantial Completion of the Mall such that the private portion of the Project, including the buildings not demolished, but

excluding parking garages, total at least 400,000 square feet, of which at least 250,000 square feet will be retail. The City's obligation to pay the Acquisition Amount on the Acquisition Date for the Phase 2 Transaction is subject to the Developer, and third party owners and developers, having obtained Substantial Completion of the Mall such that the private portion of the Project, including the buildings not demolished, but excluding parking garages, total at least 600,000 square feet, of which at least 250,000 square feet will be retail. In the event that on the Acquisition Date for the Phase 1 Transaction or the Phase 2 Transaction, the respective conditions set forth in this Section 7.7.1, as applicable to the transaction, have not been satisfied, then the Acquisition Date with respect thereto shall be extended to a date which is seven (7) days after the satisfaction of this condition to payment. In addition, the City's obligation to pay the Acquisition Amount on the Acquisition Date for both Transactions is subject to (1) finalization of a mutually agreed upon perpetual non-exclusive easement for land to be conveyed to the City by easement; and (2) finalization of a mutually agreed upon maintenance responsibility matrix associated with land and improvements to be maintained by Developer pursuant to this Agreement.

7.7.2 Obligation to Make Payment. The City's obligation to provide for payment of the Acquisition Amount on the Acquisition Dates is not conditioned on the execution and delivery of tax exempt or taxable obligations regardless of interest rate, and in the event the City is unable to issue tax exempt or taxable obligations, the City shall nevertheless be obligated to pay, or cause to be paid to the Developer, the Acquisition Amount in cash or other immediately available funds on the Acquisition Dates.

7.7.3 Tax Exempt Obligations. Not later than the Acquisition Dates, the City may finance some or all of its acquisition of the improvements and land comprising the Acquired Property by causing the execution and delivery of tax exempt obligations or taxable obligations in an amount sufficient to cause the payment to the Developer of the full Acquisition Amount. The City represents and warrants to the Developer that as of the Effective Date of this Agreement it has sufficient debt capacity under existing Washington law ("Debt Capacity") to finance the Acquisition Amounts. The City agrees that it will not incur any indebtedness from and after the date of this Agreement which would cause it not to have sufficient Debt Capacity under Washington law to finance the Acquisition Amounts and the Developer has relied on this representation in entering into this Agreement. In the event the City is unable to cause the issuance of obligations to finance the acquisition of the improvements and land comprising the Acquired Property, the City shall nevertheless be obligated to pay the Acquisition Amount on the Acquisition Dates as provided in Section 7.7.2 of this Agreement. The City shall pay, or cause the payment of, any and all financing or other costs in connection with the issuance of the obligations.

7.7.4 Conveyance. The Developer shall convey the land and improvements dedicated to the City pursuant to a special warranty deed which meets the requirements of this Agreement on the applicable Acquisition Dates. The Developer shall grant and convey to the City a perpetual non-exclusive easement over the Public Plaza land, which also provides for public use of the improvements located on the Public Plaza land, on the applicable Acquisition Dates. The City shall pay the Developer the respective Acquisition Amounts in cash or other immediately available funds on the applicable Acquisition Dates.

7.8 **Closing.** On or before the Acquisition Dates, the Parties shall deposit with the Escrow Holder the following:

7.8.1 **Delivery by the Developer.** The Developer shall deliver, on each of the Acquisition Dates, and as applicable to the Transaction, the following documents:

(a) A special warranty deed to the land and fixture improvements being dedicated to the City and/or a perpetual non-exclusive easement over the applicable phase of the Public Plaza, which meets the requirements of this Agreement, executed in recordable form and ready for recording on the Acquisition Date, together with an executed real estate excise tax affidavit prepared by the Escrow Holder.

(b) The Reservation of Developer Rights, Covenants, Conditions and Restrictions Relating to the Public Plaza and the 120th Avenue NE Right-of-Way, in the form attached hereto as **Exhibit E**, executed in recordable form and ready for recording on the Acquisition Date.

(c) Evidence reasonably satisfactory to the City that the land being dedicated to the City is free and clear of all liens arising by or through the actions of the Developer, its contractors, subcontractors or their respective agents and employees, other than Permitted Exceptions; provided, however, that if the title insurance policy to be issued in conjunction with Closing of the phase being transferred contains an endorsement protecting against said liens, then no further evidence shall be required.

(d) Certification that the Developer is not a "foreign person" within the meaning of the Foreign Investment In Real Property Tax Act.

(e) Evidence reasonably satisfactory to the City that the applicable conditions precedent set forth in Section 7.7.1 have been satisfied prior to Closing the applicable Transaction.

(f) Evidence that all applicable original warranties which the Developer has received in connection with the construction of the improvements built by the Developer and being dedicated to the City (to the extent assignable and to the extent such warranties have not expired in accordance with their terms), together with a duly executed assignment of warranties in a form reasonably satisfactory to the City or its designee, as applicable, have been delivered and assigned, as applicable.

(g) Any partial reconveyance documents required to eliminate of record any existing mortgages or deeds of trust which are not Permitted Exceptions as hereinabove defined and, if applicable, any affidavit required in conjunction with the title company endorsement providing affirmative coverage against construction liens and the rights of parties in possession.

(h) As applicable, a copy of "as built" plans and specifications for improvements being dedicated to the City.

(i) An irrevocable commitment from the Title Company to issue the City or its designee an ALTA owner's standard coverage title insurance policy in form and substance reasonably satisfactory to the City showing fee simple title to the land being dedicated vested in the City, subject only to the Permitted Exceptions, which title insurance policy, upon request of the City at its sole cost and expense, shall contain an endorsement providing affirmative coverage against construction liens. At the request of the City, all or any portion of the owner's policy of title insurance shall be reinsured under reinsurance agreements and with reinsurers reasonably satisfactory to City, and the cost of such reinsurance, if any, shall be paid by the City.

(j) In the event the Developer has transferred all or any portion of its interest under this Agreement, either voluntarily or involuntarily, an assumption agreement in form and substance satisfactory to the City under which such transferee shall assume such rights, duties and obligations under this Agreement as the Developer may have assigned, transferred, or delegated to such transferee in compliance and accordance with the provisions of Section 15.1.

(k) Such resolutions, certificates or other documents as shall be reasonably required by the Escrow Holder in connection with Closing the City's acquisition of the improvements and land being transferred.

(l) Any other documents, instruments, data, records or other agreements called for herein which have not been previously delivered.

7.8.2 Delivery by the City. The City shall deliver, or cause to be delivered, on each of the Acquisition Dates, and as applicable to the contemplated Transaction, the following documents:

(a) The applicable Acquisition Amount, in cash or other immediately available funds, for the property interests being transferred.

(b) Such ordinances, authorizations, certificates or other documents or agreements relating to the City as shall be reasonably required by the Escrow Holder in connection with Closing the City's acquisition of the improvements and land being transferred.

(c) Any other documents, instruments, data, records, or other agreements called for herein which have not been previously delivered.

7.8.3 Other Instruments. The Developer and the City shall each deposit such other instruments as may be reasonably required by Escrow Holder or as may be otherwise required to Close the escrows in accordance with the terms hereof.

7.8.4 Pro-rations. All ownership, use, operation and maintenance expenses associated with land being dedicated to the City, including, but not limited to, real and personal property taxes, special and other assessments, annual permits and/or inspection fees (calculated on the basis of the respective periods covered thereby), and other expenses shall be prorated as of 12:01 a.m. on the Acquisition Date so that the Developer bears all expenses of the land being dedicated to the City prior to the Acquisition Date and the City bears all expenses of

the land being dedicated to the City on and after the Acquisition Date. Under current Washington law, the City is exempt from payment of certain real and personal property taxes. In the event the City is exempt from payment of certain real and personal property taxes under Washington law on the Acquisition Date, the City shall not be responsible for payment of the same on and after the Acquisition Date. The Developer may seek reimbursement from the taxing authorities to whom the Developer may have paid any such real or personal property tax that is allocable to any period of time after the Acquisition Date and the City shall cooperate with and make all reasonable efforts to assist the Developer in securing such reimbursement. If any revenue or expense amount cannot be ascertained with certainty as of the Acquisition Date, it shall be prorated on the basis of the Parties' reasonable estimates of such amounts, and shall be the subject of a final proration sixty (60) days after Closing or as soon thereafter as the precise amounts can be ascertained. Either Party owing the other Party a sum of money based on adjustments made to the pro-rations after the Acquisition Date shall promptly pay that sum together with interest thereon at the rate of nine percent (9%) per annum from the date of demand therefor to the date of payment if payment is not made within thirty (30) days after the delivery of a statement therefor.

7.8.5 Closing Costs and Expenses. The City shall pay all costs and expenses associated with (1) any real estate excise tax associated with dedication of land to the City or granting the perpetual non-exclusive easements over the Public Plaza; (2) any extended title insurance policy or any requested reinsurance or endorsements (and survey or other costs associated therewith); and (3) execution and delivery of City obligations incurred to finance the acquisition or transfer of improvements and land comprising the Acquired Property pursuant to the City's financial arrangements. The Developer shall pay the cost and expense associated with the City ALTA owner's standard coverage title insurance policy. The Developer and the City shall each pay one-half (1/2) of the standard costs and expenses associated with escrow and recording fees.

7.8.6 Close of Escrow: Recording. On the Acquisition Dates, the Escrow Holder shall disburse the Acquisition Amounts to the Developer and shall record the documents described in Sections 7.8.1 (a), (b), (g) and (j), in the real property records of King County, Washington, and deliver the other documents described in Section 7.8. The Escrow Holder shall deliver copies of all documents executed, delivered and/or recorded in connection with this transaction to the Developer, any project lender(s), and the City, together with closing statements in form customarily prepared by Escrow Holder within five (5) days following the Acquisition Date.

ARTICLE VIII INFRASTRUCTURE TO SUPPORT REDEVELOPMENT

8.1 Transportation.

8.1.1 The City has issued a Concurrency Test Notice for roads (traffic) for the entire Project and a Certificate of Concurrency for the entire Project, which Concurrency Test Notice and the Certificate of Concurrency shall remain valid for the term of the Agreement. If the Project Plan is amended, and the City Planning Director determines that the p.m. peak hour trips

for the revised Project have increased over the number of such trips in the road (traffic) concurrency analysis for the Project, the revised Project shall be retested for road (traffic) concurrency.

8.1.2 Except as otherwise included in the SEPA documents identified in Section 3.1, the 120th Avenue NE Improvements, and the Traffic Improvements Agreement, the Developer shall not be required to fund any off-site improvements, including, but not limited to, any transportation, roadway, intersection or gateway improvements associated with redevelopment of the Mall, including, but not limited to, streets, boulevards, intersections, traffic phasing or signalization, monuments, artwork, sculptures or signage.

8.1.3 Except as specifically set forth in this Agreement, the Developer shall not be required to fund any on-site transportation and/or intersection improvements associated with the Project. To the extent that any additional on-site transportation and/or intersection improvements are deemed necessary or advisable including, but not limited to, public street improvements, turn lanes, curbs, utilities, traffic signalization and/or signage, the City shall be solely responsible for all costs and expenses associated therewith.

8.2 **Water and Sanitary Sewer.** The City will assist the Developer in the coordination of water and sewer utility infrastructure issues involving Northshore Utility District.

8.3 **Stormwater.**

8.3.1 There is an off-site stormwater conveyance system, including capacity adequate to serve the Project. The Developer shall not be required to construct or fund any off-site stormwater conveyance system improvements associated with the Project.

8.3.2 The Developer shall provide, at its sole cost and expense, and in accordance with the 1998 King County Surface Water Design Manual ("1998 Design Manual"), basic water quality treatment for all on-site pollution generating new impervious areas, and Level 2 flow control for all new impervious areas within the Project. The Developer shall not be required to provide any other stormwater conveyance system infrastructure or improvements within the Project, including, but not limited to, any additional detention for the existing impervious areas. Notwithstanding anything to the contrary in this Agreement, the 1998 Design Manual shall govern all stormwater conveyance system matters associated with the Project throughout the term of this Agreement. The parties shall develop a mutually acceptable utility plan to coordinate the tie-in of off-site and on-site stormwater conveyance infrastructure.

**ARTICLE IX
CITY FINANCIAL PARTICIPATION**

Notwithstanding anything herein to the contrary, except as set forth in Sections 4.2 and 6.2 with respect to City changes to the Project, the City shall pay for or provide public financial participation in the Project in an amount not to exceed \$15,000,000.00 ("City Financial Participation"). Such amount shall be the sum of payments associated with the following Acquired

Property in accordance with Exhibit H: (i) the Actual Cost of the Public Plaza Improvements set forth and described in Article IV, which will remain owned by Developer subject to public use for so long as the City's perpetual non-exclusive easement associated with the Public Plaza remains in effect; (ii) the Actual Cost of the Bicycle/Pedestrian lanes, landscaping and other improvements set forth and described in Article V; (iii) the Actual Cost of the hardscape/sidewalks and other improvements along the west and east side of the 120th Avenue NE right-of-way on land to be dedicated to the City; (iv) the Actual Cost of hardscapes, landscaping and other improvements on land to be dedicated to the City along Totem Lake Way; (v) dedication of the land associated with the Bicycle/Pedestrian lanes along Totem Lake Boulevard as shown on **Exhibit B**; (vi) dedication of the land along the west and east side of the 120th Avenue NE right-of-way as shown on **Exhibit B**; (vi) dedication of land along the north side of Totem Lake Way as shown on **Exhibit B**; (vii) conveyance of a perpetual non-exclusive easement to the City over the Public Plaza located in Phase 1 and Phase 2 as shown on **Exhibit B**; (viii) all of the real estate excise taxes, if any, associated with transfer to the City of the land described in this Article IX as shown on **Exhibit B** whether by dedication or conveyance of perpetual non-exclusive easements; and (ix) the Artwork pursuant to Section 4.1.2. The Parties understand and agree that the entire amount is expected to be expended by the City on the Acquired Property. If the total of Actual Costs for improvements and appraised value for dedication (or conveyance by easements) of the land shown on **Exhibit B** attributable to the Acquired Property in accordance with Exhibit H and this Agreement does not equal or exceed \$15,000,000.00, the City shall only be obligated to pay the sum of such amounts. Except as otherwise provided in Section 4.2 and Section 6.2, any cost overruns that result in Developer's aggregate Actual Costs in accordance with Exhibit H for improvements and real property interests associated with the Acquired Property to exceed \$15,000,000.00 shall be the sole responsibility of the Developer. Based on appraisals received and accepted by the City and the estimated costs of the various improvements set forth in the City Cost-Sharing Public Benefits Table attached hereto as **Exhibit H**, the City Financial Participation will not exceed \$15,000,000.00, though the value of the consideration received by the City pursuant to this Agreement will exceed that amount.

ARTICLE X VESTING

10.1 **General Vesting.** The Project shall continue to be vested to the federal, state and local laws, regulations and resolutions existing on March 6, 2006, the effective date of the original Agreement ("Vested Laws"), including, but not limited to, the Comprehensive Plan, Zoning Use Tables, Totem Lake Neighborhood Sub-Area Plan, Development Regulations, Building Codes and Regulations, Design Guidelines, and provisions of the KMC and KZC applicable to the Project; provided, however, that to the extent any portion of the Project may be "grandfathered" or vested as a non-conforming use under any prior governmental Development Regulation, law, regulation, building or other code, policy or guideline, this provision shall not be deemed to inhibit or prevent the Developer from taking advantage thereof.

10.2 **Impact Fees.** The Developer's current development plan shall not be subject to any impact fees, other contributions of land, or cash in lieu thereof, whether or not

provided by Statute or Ordinance, except as specifically set forth in this Section 10.2 relating to transportation, park and school impact fees.

10.2.1 Transportation and Park Impact Fees. In February, 2017, the City and Developer entered into a Transportation and Park Impact Fee Agreement, a copy of which is attached hereto as **Exhibit F**. The Transportation and Park Impact Fee Agreement shall govern payment of transportation and park impact fees associated with the Project.

10.2.2 School Impact Fees. In February, 2017, the Lake Washington School District and Developer entered into a School Impact Fee Agreement, a copy of which is attached hereto as **Exhibit G**. The School Impact Fee Agreement shall govern payment of school impact fees associated with the Project.

10.3 Amendments. During the vested period, should any of the Vested Laws be amended, modified or changed, the Developer, at its sole discretion, may elect to have a permit or approval for the Project considered under all of such amended Vested Laws in effect on the date of application for the permit or approval; provided, however, that in the event of amendments, changes or modifications to City ordinances, regulations, resolutions or policies, including, but not limited to, the Comprehensive Plan, Zoning Use Tables, TL 2 Zoning regulations, Development Regulations, Building Codes and Regulations, Design Guidelines, and provisions of the KMC and KZC applicable to the Project, the Developer may elect to have such amended City ordinances, regulations, resolutions or policies apply to the permit or approval without adversely impacting its rights under other Vested Laws.

10.4 City Reservation of Rights. Notwithstanding the foregoing, the City reserves the authority under RCW 36.70B.170(4) to impose new or different regulations, to the extent required by a serious threat to public health and safety.

ARTICLE XI PARTIES' REPRESENTATIVES

11.1 Designation of City's Representative. The City shall designate, in writing, a person (an Authorized Representative) who shall have the power, authority and right on behalf of the City to review and accept or reject all documents, plans, applications, and requests required or allowed by the Developer to be submitted to the City pursuant to this Agreement; consent to all actions, events, and undertakings by the Developer for which consent is required by the City in this Agreement; and make all appointments of persons or entities required to be appointed or designated by the City in this Agreement. The City may change such Authorized Representative at any time upon written notice to the Developer.

11.2 Designation of Developer's Representative. The Developer shall designate, in writing, a person (an Authorized Representative) who shall have the power, authority, and right on behalf of the Developer to review and accept or reject all documents, plans, applications, and requests required or allowed by the Developer to be submitted to the City pursuant to this Agreement; consent to all actions, events, and undertakings by the Developer for

which consent is required by the Developer in this Agreement; and make all appointments of persons or entities required to be appointed or designated by the Developer in this Agreement. The Developer may change such Authorized Representative at any time upon written notice to the City.

ARTICLE XII COMPLIANCE WITH LAWS AND ORDINANCES

Throughout the term, and subject to the provisions of this Agreement, the Developer, at the Developer's sole cost and expense, shall promptly comply with all applicable laws and ordinances as they relate to the Property and the Project. To the extent that the Developer's compliance shall require the cooperation and participation of the City, the City agrees to use its best efforts to cooperate and participate.

ARTICLE XIII INSURANCE

13.1 Insurance Requirements. Until the completion of the 120th Avenue NE Improvements and Traffic Improvements, the Developer shall maintain insurance covering work to be performed in the City right-of-ways, including but not limited to the following requirements:

13.1.1 Builders All Risk Comprehensive Coverage. With regard to 120th Avenue NE Improvements and Traffic Improvements, the Developer shall carry, or shall require the general contractor(s) to carry, Builders All Risk Comprehensive Coverage Insurance, including earthquake and flood, and to include amounts sufficient to prevent the City or the Developer from becoming a co-insurer under the terms of the applicable policies but in any event in an amount not less than one-hundred percent (100%) of the then full "Replacement Cost," being the cost of replacing the 120th Avenue NE Improvements and the Traffic Improvements.

13.1.2 Commercial General Liability. The Developer shall carry, or shall require its general contractor(s) to carry, Commercial General Liability insurance providing coverage against claims for bodily injury, death, or property damage on the Property with broad form liability and property damage endorsement, such insurance to have combined single limits of liability of no less than \$5,000,000.00, per occurrence and aggregate.

13.2 Insurance Policies. Insurance policies required herein:

13.2.1 Qualifications. Shall be issued by companies authorized to do business in the State of Washington with the following qualifications:

(a) The companies must be rated no less than "A" as to general policy holders rating and no less than "X" as to financial category in accordance with the latest edition of Best's Key Rating Guide, published by A.M. Best Company, Incorporated; provided, however, for any insurance requirements imposed upon subcontractors, a financial category no less than "VIII" shall be acceptable.

(b) The policies shall name the City as an additional insured.

(c) The policies shall be issued as primary policies; provided, however, that the Developer, and general contractor(s) and subcontractors, may be insured under one (1) or more blanket insurance policies, which shall be permitted and acceptable.

13.2.2 Attachments. Each such policy or certificate of insurance mentioned and required in this Article XIII shall have attached thereto:

(a) An endorsement that such policy shall not be canceled or materially changed without at least thirty (30) days' prior written notice to the Parties; provided, however, that such policy may be an annual or periodic policy, renewed on an annual or periodic basis, and the City shall be provided a renewal certificate therefor within thirty (30) days before the expiration date. In lieu of this endorsement, Developer may provide annual evidence of compliance with the provisions of this Article 13.

(b) An endorsement to the effect that the insurance, as to anyone insured, shall not be invalidated by any act or neglect of any other additional insured.

(c) An endorsement pursuant to which the insurance carrier waives all rights of subrogation against the Parties.

(d) An endorsement pursuant to which this insurance is primary and noncontributory.

13.2.3 Certificates of Insurance. The certificates of insurance and insurance policies shall be furnished to the Parties prior to commencing construction of the 120th Avenue NE Improvements and/or the Traffic Improvements under this Agreement. The certificate(s) shall clearly indicate the insurance and the type, amount, and classification required.

13.2.4 Cancellation. Cancellation of any insurance or nonpayment by the Developer of any premium for any insurance policies required by this Agreement shall constitute an Event of Default of this Agreement.

13.3 Adjustments. The types of policies, risks insured, coverage amounts, deductibles and endorsements may be adjusted from time to time as the Parties may mutually determine in writing.

ARTICLE XIV ENVIRONMENTAL INDEMNIFICATION

14.1 Indemnification. Subject to the limitations of Sections 14.2 and 14.3, the Developer shall indemnify and hold the City harmless from and against any and all liability, loss, damage, cost, or expenses (including reasonable attorneys' fees and court costs, amounts paid in settlements, and judgment) arising from or as a result of preexisting environmental contaminants on or beneath the land to be dedicated (or conveyed by easements) to the City as shown on **Exhibit B**, including any such liability, loss, damage, costs, or expenses resulting from the past or future

migration of such environmental contaminants from the land to any other property. "Environmental contaminants" shall include without limitation:

14.1.1 Those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," or "solid waste" in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 et seq.) ("CERCLA"), as amended by Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99 499 100 Stat. 1613) ("SARA"), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.) ("RCRA"), and the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq., and in the regulations promulgated pursuant to said laws, all as amended;

14.1.2 Those substances listed in the United States Department of Transportation Table (49 C.F.R. 172. 101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 C.F.R. Part 302 and amendments thereto);

14.1.3 Any material, waste, or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyls, (D) designated as a "hazardous substance" pursuant to Section 3.11 of the Clean Water Act (33 U.S.C. § 1317); (E) flammable explosives, or (F) radioactive materials;

14.1.4 Those substances defined as "dangerous wastes," "hazardous wastes," or as "hazardous substances" under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., the Water Pollution Control Act, RCW 90.48.010 et seq., the Hazardous Waste Management Statute, RCW 70.105.010 et seq., the Toxic Substance Control Act, RCW 70.105B.010 et seq., and the Model Toxics Control Act, RCW 70.105D.010 et seq., and in the regulations promulgated pursuant to said laws, all as amended;

14.1.5 Storm water discharge regulated under any federal, state or local law, ordinance or regulation relating to storm water drains, including, but not limited to Section 402(p) of the Clean Water Act, 33 U.S.C. Section 1342 and the regulations promulgated thereunder, all as amended; and

14.1.6 Such other substances, materials, and wastes which are regulated as dangerous, hazardous, or toxic under applicable local, state or federal law, or the United States government, or which are classified as dangerous, hazardous, or toxic under federal, state, or local laws or regulations.

14.2 Third Parties. This agreement by the Developer to indemnify and hold the City harmless applies to claims brought by any third party based upon state or federal statutory or common law, resulting from the release, threatened release, or migration of pre-existing environmental contaminants and any property damage or damages for personal injury related thereto. As used in this section, "release" shall mean releasing, spilling, leaking, pumping, pouring, flooding, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping.

14.3 Pre-existing Contaminants. This agreement to indemnify and hold harmless applies only to claims resulting from those environmental contaminants that were present on or beneath the Property prior to March 6, 2006, the effective date of this Agreement. In addition, this agreement to indemnify and hold harmless does not apply to any release, threatened release, or migration of environmental contaminants from City right-of-ways, including, but not limited to public streets and roadways, or resulting from the actions of the City, its officers, agents, or employees.

**ARTICLE XV
RIGHT TO ASSIGN, DELEGATE OR OTHERWISE TRANSFER**

15.1 Assignment Right. During the term of this Agreement, the Developer shall have the right and privilege to sell, assign, or otherwise transfer this Agreement to such other persons, firms, corporations, partnerships, joint ventures, and federal, state, or municipal government or agency thereof, as the Developer shall select (“Transferee”); provided, that:

15.1.1 Prior to conveyance of the Acquired Property, the Developer must obtain the prior written consent of the City to any proposed Transferee, which consent shall not be unreasonably withheld assuming the Transferee accepts the responsibilities of the Developer hereunder in writing and demonstrates to the reasonable satisfaction of the City that it has the financial capacity to fulfill its obligations hereunder; provided, however, that after Developer conveys to the City the Acquired Property, prior consent of the City shall not be required;

15.1.2 Such sale, assignment, or transfer shall be made expressly subject to the terms, covenants, and conditions of this Agreement;

15.1.3 There shall be delivered to the City a duly executed and recordable copy of the document evidencing such transfer;

15.1.4 The City will deliver to Transferee a fully executed Estoppel Certificate in a form reasonably acceptable to both Parties; and

15.1.5 Such transfer shall not be effective to bind the City until the Transferee has assumed all obligations of the Developer under this Agreement and notice thereof is given to the City, and such notice shall designate the name and address of the Transferee.

15.2 Succession. The Transferee (and all succeeding and successor Transferees) shall succeed to all rights and obligations of the Developer under this Agreement, including the right to mortgage, encumber, and otherwise assign, subject, however, to all duties and obligations of the Developer in and pertaining to the then unperformed provisions of this Agreement. Upon such transfer by the Developer, or by a successor in accordance with the requirements of Section 15.1, the Developer (and/or its successive Developer or Developers) as Transferor in such a transfer shall not be released and discharged from all of its duties and obligations hereunder which pertain to the then unperformed provisions of this Agreement, which are not then due, without the written consent and release of the City.

15.3 Right to Delegate Maintenance and Related Insurance Responsibilities.

Developer shall have the right, but not the obligation, to delegate all maintenance responsibilities, and related insurance requirements, under this Agreement to a private master association to be formed whose members are private owners of land within the Project.

15.4 Intended Third Party Beneficiaries. The Parties acknowledge and agree that FF Realty III LLC, a Delaware limited liability company, and its affiliates, successors and assigns, and any other third party acquiring an ownership interest in the Project, will be an “intended third party beneficiary” under this Agreement and that the intended third party beneficiary shall inure to the benefits under this Agreement including, without limitation, the provisions of Articles III, VIII, X, XV, XVI, XVII, XVIII, and Exhibits E, F and G; but shall not have (a) responsibility with regard to the obligations of Developer, including any indemnification, defense and/or hold harmless obligations, nor (b) the obligations or benefits (including reimbursement rights) associated with City Financial Participation, unless the Agreement is assigned to the intended third party beneficiary and such obligations are expressly assumed by such party and consent to assignment is approved by the City in accordance with Section 15.1.

15.5 Mortgagee Protection.

15.5.1 Mortgagee Not Obligated; Mortgagee as Transferee. No mortgagee shall have any obligation or duty under this Agreement whatsoever, including, but not limited to, any obligation to construct the Project or any portion thereof, except that nothing contained in this Agreement shall be deemed to permit or authorize any mortgagee to undertake any new construction or improvements on the Property, or to otherwise have the benefit of any rights of Developer, or to enforce any obligation of the City under this Agreement, unless and until such mortgagee obtains City consent to assignment of this Agreement to mortgagee as provided in Section 15.1 of this Agreement. Any mortgagee that affirmatively elects to obtain City consent to assignment of this Agreement to mortgagee shall be later released from all obligations and liabilities under this Agreement upon the subsequent transfer by the mortgagee of its interest as a transferee to a third party who obtains the City’s consent to assignment of this Agreement to the third party.

15.5.2 Notice of Default to Mortgagee; Right of Mortgagee to Cure. If the City receives notice from a mortgagee requesting that a copy of any future Notice of Default that may be given to Developer hereunder and specifying the address for service thereof (“Notice Request”), then the City shall deliver to such mortgagee, concurrently with service thereon to Developer, any Notice of Default thereafter given to Developer. Such mortgagee shall have the right (but not the obligation) to cure or remedy, or to commence to cure or remedy, the Event of Default claimed within the applicable time periods for cure specified in the Agreement. If, however, the Event of Default or such noncompliance is of a nature which can only be remedied or cured by such mortgagee obtaining possession of the Property, or portion thereof, such mortgagee shall seek to obtain possession with diligence and continuity (but in no event later than ninety (90) days after a copy of the Notice of Default is given to Mortgagee) through a receiver or otherwise, and shall thereafter remedy or cure such Event of Default or noncompliance promptly and with diligence and dispatch after obtaining possession. Other than a Notice of Default (i) for

failure to pay money or (ii) that is reasonably susceptible of remedy or cure prior to a mortgagee obtaining possession, so long as mortgagee is pursuing cure of the Event of Default in conformance with the requirements of this Section 15.5.2, the City shall not exercise any right or remedy under this Agreement on account of such Event of Default. When and if a mortgagee acquires the interest of Developer encumbered by mortgagee's mortgage and such mortgagee elects to obtain City consent for assignment of this Agreement in accordance with Section 15.1, then such mortgagee shall promptly cure all monetary or other Events of Default then reasonably susceptible of being cured by such mortgagee to the extent such that such Events of Default are not cured prior to such mortgagee's becoming a transferee.

15.5.3 Priority of Mortgages. For purposes of exercising any remedy of a mortgagee pursuant to this Section 15.5, the applicable Laws of the State of Washington shall govern the rights, remedies and priorities of each mortgagee absent a written agreement among mortgagees otherwise providing.

15.5.4 Collateral Assignment. As additional security to a mortgagee under a mortgage on the Property, or any portion thereof, Developer shall have the right to execute a collateral assignment agreement of Developer's rights, benefits and remedies under this Agreement in favor of the mortgagee ("Collateral Assignment"), and the City shall execute a commercially reasonable consent to such Collateral Assignment ("Consent to Assignment") with the lender(s). A commercially reasonable Consent to Collateral Assignment may require the City to grant certain rights to the lenders, including the right of lenders (either directly or through an agent, nominee, or receiver) to "step-in" and assume the rights and benefits of the Developer under the development agreement; the right to further assign this Agreement upon realization and enforcement of its security interest; limitations on amending, modifying or terminating the Agreement without the consent of lenders; and other matters to preserve the value of the Agreement for the lenders.

ARTICLE XVI DEFAULT

16.1 Events of Default. The following shall constitute events of default under this Agreement ("Event(s) of Default"):

16.1.1 A default by a Party in keeping, observing or timely performing any of its duties and/or obligations under this Agreement;

16.1.2 The making by the Developer of an assignment for the benefit of creditors or filing a petition in bankruptcy or of reorganization under any bankruptcy or insolvency law or filing a petition to effect a composition or extension of time to pay its debts;

16.1.3 The appointment of a receiver or trustee of the Property, which appointment shall not be vacated or stayed within six (6) months; and

16.1.4 The filing of a petition in bankruptcy against the Developer or for its reorganization under any bankruptcy or insolvency law which shall not be dismissed or stayed by the court within six (6) months after such filing.

16.2 Remedies in the Event of Default. If an Event of Default shall occur, or in the event of a dispute, claim or controversy arising out of, or relating to this Agreement, then either Party shall have the rights and remedies, and shall be required to proceed in accordance with, the Dispute Resolution provisions in Article XVII; provided, however, that in the event Dispute Resolution is unsuccessful, the Parties shall have all rights, remedies and causes of action, at law or in equity, available under the laws of the State of Washington.

ARTICLE XVII DISPUTE RESOLUTION

17.1 Disputes and Coordination Issues. Whenever any dispute arises between the Parties under this Agreement (“Dispute”), including any default, controversy or claim arising out of, or relating to, this Agreement, or any breach thereof, which are not resolved by routine meetings or communications, the provisions of this Article XVII shall apply. Either Party shall have the right to commence a dispute resolution process by issuing a written request to the other Party, which request shall contain brief details of the Dispute (“Dispute Notice”), excepting only those disputes subject to Section 17.6, which shall not require a Dispute Notice.

17.2 Cooperative Discussions. The Authorized Representatives of the Parties shall seek in good faith to resolve any such dispute or concern within ten (10) days after the date of the Dispute Notice. The Authorized Representatives shall meet within five (5) days after the date of the Dispute Notice, and shall continue to meet thereafter, as reasonably requested by a Party, in an attempt to resolve the Dispute. If the Dispute is resolved by the Authorized Representatives, the resolution shall be recorded in writing and signed by the Authorized Representatives of each Party and that resolution shall be final and binding on both Parties. If the Parties are unable to resolve the Dispute through cooperative discussions within ten (10) days after the date of the Dispute Notice, then except as specifically provided in Section 17.4 for binding arbitration of monetary disputes less than \$50,000.00, the Parties may immediately pursue any remedies available under Washington law, and may commence litigation prior to, and without regard to, the provisions of Section 17.3 and 17.4, which shall be deemed entirely voluntary and discretionary.

17.3 Mediation. If the Parties are unable to resolve a Dispute in accordance with the provisions of Section 17.2, the Parties may consider the use of voluntary non-binding mediation. In the event that non-binding mediation is agreed upon, the site of the proceedings shall be Kirkland, Washington, unless otherwise agreed in writing by the Parties. The rules for mediation, the selection of the mediator, and the timetable and procedures for mediation, shall be determined by mutual agreement of the parties. The mediator shall be skilled in the legal and business aspects of the subject matter of this Agreement. The mediation shall be conducted without prejudice to either Party and in strict confidence. Each Party shall share equally in the costs of the mediation except that each Party shall bear its discretionary costs, including, but not

limited to, its attorneys' fees and expenses. If the Dispute is settled through mediation, the terms of the settlement shall be recorded in writing and signed by the Authorized Representatives of the Parties. Unless otherwise mutually agreed by the Parties in writing, the mediator shall not be utilized in any subsequent proceeding to provide evidence in any way relating to the Dispute, nor shall the mediator be entitled to act as a fact or expert witness to either Party in any subsequent proceeding. If within forty-five (45) days after the date of the Dispute Notice, the mediation has not resulted in settlement of the Dispute, then the mediation shall, unless otherwise mutually agreed in writing by the Parties, be terminated. If either Party withdraws from mediation at any time, the mediation shall be terminated.

17.4 Arbitration. If the Parties are unable to resolve a Dispute in accordance with the provisions of Section 17.2, the Parties may consider the use of voluntary binding arbitration; provided, however, that binding arbitration shall be required for any strictly monetary Dispute, the value or potential financial impact of which is agreed by the Parties to be less than \$50,000.00. In the event that binding arbitration is required, or mutually agreed upon, and unless otherwise mutually agreed by the Parties in writing, the site of the proceedings shall be Kirkland, Washington, and Washington law shall govern the arbitration proceedings. Upon completion of the cooperative discussions set forth in Section 17.2, the arbitration process shall commence immediately. The Parties shall determine by mutual agreement the rules for arbitration, the selection of the arbitrator, and the timetable and procedures for arbitration, including, but not limited to, (i) the extent, form and time limits applying to any documentary or oral evidence of the Parties to be submitted to arbitration; (ii) site visits or inspections; (iii) meetings with the Parties; and (iv) appointment of experts; provided, however, that in the event the Parties are unable to agree within twenty-five (25) days after the date of the Dispute Notice, then the Rules of the Judicial Arbitration and Mediation Service, Seattle office, shall apply. The arbitrator shall be skilled in the legal and business aspects of the subject matter of this Agreement. The arbitration shall be conducted without prejudice to either Party and in strict confidence. The arbitrator shall decide the Dispute acting impartially and in good faith. The arbitrator shall reach a decision and communicate the decision in writing to the Parties, providing the basis for the decision. The arbitrator's decision shall be final and binding on the Parties. The Parties shall implement the arbitrator's decision without delay. The arbitrator's fees and expenses, the other costs of arbitration, and the Parties' reasonable attorneys' fees and costs shall be borne by the Parties as the arbitrator shall specify in his decision; provided, however, that the "substantially prevailing" Party shall be entitled to recover its arbitration expenses and reasonable attorneys' fees and costs in preparation for, and during, the arbitration process. Unless otherwise mutually agreed by the Parties in writing, the arbitrator shall render a final decision on the Dispute within sixty (60) days after the date of the Dispute Notice. The arbitrator shall not be utilized in any subsequent proceeding to provide evidence in any way relating to the Dispute, nor shall the arbitrator be entitled to act as a fact or expert witness to either Party in any subsequent proceeding.

17.5 Litigation. If the Parties are not required, or do not mutually agree, to submit a Dispute to mediation under Section 17.3, or arbitration under Section 17.4, then after the time period set forth in Section 17.2 for cooperative discussions, either Party shall have the right and authority to commence litigation immediately, and primary jurisdiction for the resolution of any Dispute relating to, or arising out of, this Agreement shall reside in the Washington State

Superior Court, King County, Washington. The Parties shall have all rights and remedies, whether at law or in equity, under Washington law, including, but not limited to, specific performance, damages and injunctive relief.

17.6 Equitable Proceedings.

17.6.1 In the event a Party desires to seek interim relief, whether affirmative or prohibitive, in the form of a temporary restraining order, preliminary injunction, or other interim equitable relief with respect to a Dispute either before or after the initiation of a dispute resolution proceeding, that Party may initiate the proceeding necessary to obtain such relief (“Equitable Proceeding”). Nothing in this Article XVII shall be construed to suspend or terminate the obligation of the Parties to comply with the provisions of Sections 17.2 with respect to the Dispute that is the subject of such Equitable Proceeding while such Equitable Proceeding is pending, including any appeal or review.

17.6.2 Notwithstanding the decision of an arbitrator or mediator, as may be applicable, any interim relief granted by such Equitable Proceeding shall not be reversed or modified by any arbitrator’s or mediator’s determination, and any factual or legal determination made in such Equitable Proceeding shall be binding upon the Parties in the Dispute before any arbitrator or mediator.

ARTICLE XVIII MISCELLANEOUS

18.1 **No Additional Third Party Rights.** Except for specific intended third party beneficiaries described in Section 15.4 and Mortgagees in Section 15.5 of this Agreement, the provisions of this Agreement are for the exclusive benefit of the City, Developer and their respective permitted successors and assigns and not for the benefit of any third person, and this Agreement shall not be deemed to have conferred any rights upon any third person.

18.2 **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

18.3 **Construction.** The section headings throughout this Agreement are for convenience and reference only and the words contained in them shall not be held to expand, modify, amplify or aid in the interpretation, construction or meaning of this Agreement. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identification of the person or persons, firm or firms, corporation or corporations may require. The locative adverbs “herein,” “hereunder,” “hereto,” “hereby,” “hereinafter,” etc., whenever the same appear herein, mean and refer to this Agreement in its entirety and not to any specific section or subsection hereof.

18.4 **Fair Construction.** The Parties acknowledge and agree that each was properly represented by counsel and that this Agreement was negotiated and drafted at arm's length so that the judicial rule of construction to the effect that a legal document shall be construed against the draftsman shall be inapplicable to this Agreement.

18.5 **Authority to Execute Agreement.** The parties represent to each other that they possess sufficient and requisite jurisdiction and authority to enter into this Agreement.

18.6 **Attorneys' Fees.** If either Party brings suit to enforce or declare the meaning of any provision of this Agreement, the substantially prevailing Party, in addition to any other relief, shall be entitled to recover its reasonable attorneys' fees and costs, including any incurred on appeal.

18.7 **Survival.** The provisions of this Agreement shall survive the expiration of the term of this Agreement to the extent involving environmental indemnification, maintenance of the lands dedicated (or conveyed by easements) to the City, or other matters involving rights or obligations extending beyond the expiration of the term of this Agreement.

18.8 **Governing Law.** This Agreement shall be governed by and construed in accordance with the Laws of the State of Washington. Venue for any legal action pertaining to this Agreement shall be in the State of Washington with jurisdiction in King County, Washington.

18.9 **Amendment.** No modification or amendment of this Agreement may be made except by written agreement signed by each of the Parties to this Agreement or as may be provided otherwise in this Agreement.

18.10 **Notices.** All notices which may be or are requested to be given, pursuant to this Agreement, shall be deemed given when hand delivered, delivered by facsimile, or when deposited in the United States Mail, postage prepaid, and marked registered or certified mail, return receipt requested, and addressed to the Parties at the following addresses unless otherwise provided for herein:

To The City: City of Kirkland
 Attention: City Manager
 123 Fifth Avenue
 Kirkland, WA 98033-6189
 Facsimile (425) 803-2859

AND TO: City of Kirkland
 Attn: City Attorney
 123 Fifth Avenue
 Kirkland, WA 98033-6189
 Facsimile (425) 587-3025

To Developer: Village at Totem Lake, LLC
Attn: General Counsel
1600 East Franklin Avenue
El Segundo, CA 90245
Facsimile (310) 563-6905

Either Party shall have the right to change the address or contact information for notice purposes at any time during the term of this Agreement upon prior written notification to the other Party.

18.11 Incorporation by Reference. All exhibits and appendices annexed hereto are hereby incorporated by reference herein.

18.12 No Joint Venture. This Agreement is not intended to, and nothing in this Agreement shall create, any partnership, joint venture or other arrangement between the Developer and the City.

18.13 Entire Agreement. This Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings between the Parties relating to the subject matter hereof.

18.14 Waiver. The waiver by one Party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such Party of any other covenant, condition, or promise hereunder. The waiver by either or both Parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time. The exercise of any remedy provided by law or the provisions of this Agreement shall not exclude other consistent remedies unless they are expressly excluded.

18.15 Exculpation. Notwithstanding anything contained to the contrary in any provision of this Agreement, it is specifically agreed and understood that there shall be absolutely no personal liability on the part of any individual officers or directors of the City or the Developer with respect to any of the obligations, terms, covenants, and conditions of this Agreement; and each Party shall look solely to the other Party or any such assignee or successor in interest for the satisfaction of each and every remedy available to a Party in the event of any breach by the other Party or by any such assignee or successor in interest of any of the obligations, terms, covenants, and conditions of this Agreement to be performed by a Party, such exculpation of personal liability to be absolute and without any exception whatsoever.

18.16 Recording. This Agreement shall be recorded by the Developer or the City with the Real Property Records Division of the King County Records and Elections Department.

18.17 Binding Effect. The terms herein contained shall bind and inure to the benefit of the City, its successors and assigns, and the Developer, its successors and assigns, except

as may be otherwise provided herein. In addition, the rights contained herein shall inure to any intended third party beneficiary pursuant to the terms of Section 15.4 of this Agreement.

18.18 Counterparts. This Agreement may be executed in any number of counterparts and all counterparts shall be deemed to constitute a single agreement. The execution of one counterpart by a Party shall have the same force and effect as if that Party had signed all other counterparts. Executed copies of this Agreement delivered by facsimile or electronic transmission shall be deemed an original signed copy of this Agreement; provided, however, that one original or counterpart of this Agreement must be executed by each Party to facilitate recording.

18.19 Time is of the Essence. For the purposes of this Agreement and all transactions contemplated thereunder, time is of the essence.

18.20 Term and Termination. Pursuant to the Extended and Amended Redevelopment Agreement, dated April 22, 2015, the term of the Agreement was extended to April 23, 2020. However, Developer had the right to extend the term for an additional (2) years if, prior to termination, the Developer (a) obtained City DRB Design Approval associated with a private portion of the Project such that the combined square footage, including the buildings not demolished, but excluding the parking garage(s), totals at least 600,000 square feet, of which at least 250,000 square feet will be retail; and (b) obtained a building permit for construction of at least one building of the private portion of the Project. The Developer has requested extension and the City agrees that the preconditions have been satisfied. Accordingly, subject to the survival provisions set forth in Section 18.7, the term of this Agreement shall expire on April 23, 2022.

IN WITNESS WHEREOF, Developer and City have executed this Agreement on the dates set forth below.

[Remaining Page Intentionally Blank – Signature Page Follows]

CITY OF KIRKLAND

By: _____

Kurt Triplett

Its: City Manager

Date: November __, 2017

VILLAGE AT TOTEM LAKE, LLC

By: _____

Jean Paul Wardy

Its: President

Date: November __, 2017

STATE OF WASHINGTON)
) ss
 COUNTY OF KING)

I certify that I know or have satisfactory evidence that **Kurt Triplett** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the City Manager of the City of Kirkland, Washington to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: November __, 2017

 (Signature of Notary)

 (Legibly Print or Stamp Name of Notary)

Notary public in and for the State of Washington,
 residing at _____
 My appointment expires _____

EXHIBITS TO REDEVELOPMENT AGREEMENT

- EXHIBIT A Legal Description of Property
- EXHIBIT B Project Site Plan
- EXHIBIT C Traffic Improvements Agreement
- EXHIBIT D Public Plaza and 120th Avenue NE Design Standards
- EXHIBIT E Reservation of Developer Rights, Covenants, Conditions and Restrictions Relating to the Public Plaza and the 120th Avenue NE Right-of-Way
- EXHIBIT F Transportation and Park Impact Fee Agreement
- EXHIBIT G School Impact Fee Agreement
- EXHIBIT H City Cost-Sharing and Public Benefits Table

EXHIBIT A**Legal Description of Property**

[THIS WILL CHANGE AS THE BINDING SITE PLAN FOR PHASE 2 WILL BE RECORDED PRIOR TO FINAL APPROVAL OF THIS AGREEMENT. THE CORRECT LEGAL DESCRIPTION WILL BE ATTACHED PRIOR TO RECORDING]

PARCEL A:

LOTS 1 AND 2 OF THE VILLAGE AT TOTEM LAKE – PHASE 1 – BINDING SITE PLAN SUB17-00080, RECORDED JULY 13, 2017 UNDER RECORDING NO. 20170713000057, IN KING COUNTY, WASHINGTON. PARCEL B:

THAT PORTION OF TRACT C OF PUGET SOUND CENTER, AS PER PLAT RECORDED IN VOLUME 92 OF PLATS, PAGES 95 AND 96, RECORDS OF KING COUNTY, ACCORDING TO THE CORRECTION MAP THEREOF recorded under Recording No. 7105100304; AND LOTS G1 AND G2 OF CITY OF KIRKLAND'S SHORT PLAT NO. 76-9-9 AS FILED UNDER KING COUNTY RECORDING NO. 7612010652, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT G, SAID PLAT OF PUGET SOUND CENTER;

THENCE NORTH 89°56'25" EAST 576.34 FEET ALONG THE NORTHERLY LINE THEREOF;

THENCE SOUTH 07°30'00" EAST 157.00 FEET;

THENCE SOUTH 24°05'38" EAST 139.78 FEET;

THENCE SOUTH 40°43'34" EAST 199.25 FEET;

THENCE NORTH 88°51'15" EAST 100.02 FEET,

THENCE SOUTH 66°02'15" EAST 147.73 FEET;

THENCE SOUTH 76°38'19" EAST 122.95 FEET;

THENCE SOUTH 11°30'00" WEST 10.00 FEET TO THE SOUTHERLY LINE OF SAID TRACT G;

THENCE WESTERLY 122.60 FEET (CENTRAL ANGLE 46°49'44") along the arc of a circular curve, said curve having a radius of 150.00 feet which bears north 11°30'00" east from the curve enter to the curve beginning;

thence south 54°40'16" west 426.21 feet to the southwesterly corner of that parcel of land described in the deed recorded under Recording No. 7312200264;

thence north 33°09'16" west, along the easterly line of said parcel, 149.70 feet;

thence south 56°50'44" west, along the northerly line of said parcel, 192.24 feet to the easterly margin of 120th avenue northeast and the arc of a curve to the left having a radius of 465.00 feet whose center bears south 71°03'44" west;

thence northerly along said margin and curve through a central angle of 14°13'00" an arc distance of 115.38 feet;

thence north 33°09'16" west, along said margin, 159.80 feet to the southwesterly corner of that

parcel of land described in the deed recorded under Recording NO. 7310010602;
thence north $56^{\circ}50'44''$ east, along the southerly line of said parcel, 195.32 feet;
thence north $33^{\circ}09'16''$ west, along the easterly line of said parcel, 128.00 feet;
thence south $56^{\circ}50'44''$ west, 195.32 feet to the easterly margin of 120th avenue northeast;
thence north $33^{\circ}09'16''$ west, along said margin, 318.20 feet to the beginning of a curve to the right having a radius of 292.16 feet;
thence northerly along said curve through a central angle of $35^{\circ}00'00''$ an arc distance of 178.47 feet;
thence north $01^{\circ}50'44''$ east, along said margin, 0.83 feet to the POINT OF BEGINNING;
together with an easement for a covered walkway over that portion of tract c, Puget sound center, as recorded in volume 92 of plats, pages 95 and 96, records of king county Washington, and amended by the correction map thereof recorded under king county auditor's file no. 7105100304, the boundary of which is described as follows:

beginning at the northwest corner of tract g of said map;
thence south $01^{\circ}50'44''$ west a distance of 0.83 feet;
thence along the arc of a 292.16 foot radius tangent curve to the left through a central angle of $35^{\circ}00'00''$; a distance of 178.47 feet;
thence south $33^{\circ}09'16''$ east a distance of 318.20 feet to the true point of beginning;
thence north $56^{\circ}50'44''$ east a distance of 195.32 feet;
thence south $33^{\circ}09'16''$ east a distance of 20.00 feet;
thence south $56^{\circ}50'44''$ west a distance of 195.32 feet;
thence north $33^{\circ}09'16''$ west a distance of 20.00 feet to the true point of beginning;
TOGETHER WITH EASEMENTS FOR INGRESS, EGRESS AND UTILITIES, PARKING, RESTRICTIONS AND COVENANTS AND OTHER RECIPROCAL RIGHTS AS CONTAINED IN INSTRUMENTS RECORDED UNDER RECORDING NOS. 7310010602 AND 7312200264;

SITUATE IN THE CITY OF KIRKLAND, COUNTY OF KING, STATE OF WASHINGTON.

EXHIBIT B
Project Site Plan

EXHIBIT C
Traffic Improvements Agreement

EXHIBIT D**Public Plaza and 120th Avenue NE Design Standards****1. General standards**

The Public Plaza Improvements and the 120th Avenue NE Improvements shall be constructed in accordance with the applicable provisions of the KMC and the KZC and the Public Works Department 2005 Pre-Approved Plans; provided, however, that (1) the City and the Developer may mutually agree otherwise; (2) the City Design Review Board may approve plans and specifications that deviate from these standards; and (3) that the following standards shall prevail in the event of a conflict between such provisions and the following standards.

2. Paving

- a. **Pedestrian Specialty Paving:** Shall be a combination of gray and colored concrete. Scoring and/or stamping shall divide pavement into sections. The size of sections may vary, but generally shall not be greater than 16 square feet.
- b. **Vehicular Specialty Paving:** Shall be colored concrete. Scoring and/or stamping shall divide pavement into sections. The size of sections may vary, but generally shall not be greater than 16 square feet.
- c. **Accent pavers:** Paving may be accented by decorative pavers or brick.

3. Amenities

- a. **Benches:** Shall be minimum 6' length, commercial grade, consisting of a rustproof frame and seat made of powder-coated steel, aluminum or cast iron.
- b. **Seatwalls:** Shall be 12-20" high and 12-24" wide consisting of architecturally finished concrete or other durable, permanent material. Seatwalls shall incorporate skateboard deterrents.
- c. **Tree Grates:** Shall be cast iron, aluminum or powder coated steel minimum 5'x5'. Grates shall have knockouts to allow for tree growth. Grates shall be installed flush with surrounding pavement.
- d. **Flower Pots:** Concrete, ceramic or composite material. Frost proof with drainage holes. Minimum 24" height and 24" diameter.

- e. **Water Feature:** Within the Phase 2 Public Plaza shall be a water feature with moving water integrated into the overall design. The water feature shall incorporate seating and be at a pedestrian scale.
 - f. **Bollards:** Shall be removable, ornamental, rustproof cast iron, aluminum, or powder coated steel. Bollards may incorporate lighting.
 - g. **Lighting:** Shall be decorative post lights located a maximum of 60' on center. Luminaries shall be cut-off type to avoid glare.
 - h. **Public Art:** Shall be incorporated into the Public Plaza Improvements and the 120th Avenue NE Improvements as a component of another element or as a freestanding object. The Developer agrees to use reasonable efforts to coordinate the selection of this artwork with the City and the Kirkland Cultural Arts Commission and final selection of artwork for the Public Plaza and the payment amount shall be subject to the mutual agreement of the City and the Developer.
 - i. **Trash Cans:** Shall be ornamental and made of rustproof powder-coated steel, aluminum or cast iron.
 - j. **Bike Racks:** Shall be provided. The design of the bike racks shall compliment the design of other site amenities.
4. **Landscape**
- a. **Trees:** Shall be minimum 2 ½" caliper. Medium sized trees shall be selected for planting in tree grates and larger trees to accent intersections where space permits in in-ground planters.
 - b. **Shrubs and Groundcover:** In-ground planters shall be planted with a mix of deciduous and evergreen plants suitable to the climate and urban conditions.
 - c. **Accent Plantings:** Flower pots shall be planted with woody and herbaceous plants on a seasonal replacement schedule to provide year-round interest.
5. **Irrigation:** An automatic water-conserving irrigation system shall be installed to serve all new plantings.
6. **Other**
- a. Site amenities shall be designed and selected to form a coordinated family, by repetition of materials, colors and/or forms.
 - b. Alternative materials may be approved by the City Planning Director.

EXHIBIT E**Reservation of Developer Rights, Covenants,
Conditions and Restrictions Relating to the Public Plaza
and the 120th Avenue NE Right-of-Way**

The reservation of Developer rights, covenants, conditions and restrictions contained herein and benefiting the Developer, shall control and supersede any inconsistent provisions of the Kirkland Municipal Code, including, but not limited to, the provisions of Chapters 19.46, and 19.04 KMC, as may be subsequently amended, modified, changed or replaced, except as otherwise specifically provided in Section I(3), and shall be deemed to also accrue to the benefit of the Developer's tenants, licensees, invitees, intended third party beneficiaries, and successors and assigns, and shall be deemed perpetual and shall be construed to run with the land; provided, however, that whenever any "consent" is required, only the Developer, or its successors and assigns shall be required or entitled to provide such consent.

I. RESERVATION OF DEVELOPER RIGHTS.

1. The Developer reserves unto itself for its own benefit and the benefit of its private Master Association, tenants, occupants, licensees, invitees, intended third party beneficiaries, and successors and assigns, over, under through and across the Public Plaza, a perpetual right, for ingress, egress and pedestrian access to and from the Public Plaza to the Property consistent with customary practices and operations of open-air shopping centers in the Pacific Northwest.

2. The Developer reserves unto itself for its own benefit and the benefit of its private Master Association, tenants, occupants licensees, invitees, intended third party beneficiaries, and successors and assigns, over, under through and across the Public Plaza, sidewalks along the 120th Avenue NE right-of-way, the Totem Lake Boulevard right-of-way, including the Bicycle/Pedestrian Lanes located adjacent to the Property a perpetual right for ingress, egress, use, and placement, maintenance, repair, replacement, relocation and/or removal of any utilities or drainage facilities that serve the Property or are required to be maintained by Developer as set forth in the Amended and Restated Redevelopment Agreement ("Agreement").

3. The Developer reserves unto itself, for the benefit of itself, and the benefit of its private Master Association, tenants, occupants, licensees, invitees, intended third party beneficiaries, and successors and assigns, over, under, through and across the Public Plaza and sidewalks along 120th Avenue NE right-of-way that are adjacent to retail storefronts on the Property, a perpetual right of ingress, egress and use for the purpose of sidewalk and outdoor sales (including eating, drinking and entertainment purposes), displays of merchandise and/or conduct of other business and uses consistent with customary practices and operations of open-air shopping centers in the Pacific Northwest; provided, however, on sidewalks along 120th Avenue NE right-of-way (i) the continuous width of unobstructed general public pedestrian corridor between the edge of the bicycle lane and edge of such uses is at least five feet (5') in width; and (ii) restaurants along 120th Avenue NE right-of-way that serve alcohol and desire outdoor seating areas shall obtain a sidewalk café street use permit from the City and comply with applicable provisions of

Chapter 19.04 KMC. The City agrees that sidewalk café street use permits for restaurants serving alcohol in a sidewalk café are appropriate along 120th Avenue NE right-of-way adjacent to the Property and agrees to issue such use permits upon compliance with the criteria set forth in Sections 19.04.060 through 19.04.065, inclusive, and Section 19.04.067; provided, however, that notwithstanding Section 19.04.062(A), the unobstructed general public pedestrian corridor shall only be required to meet the criteria set forth in this Section I(3).

4. The Developer reserves unto itself, for the benefit of itself, and for the benefit of its private Master Association, tenants, occupants, licensees, invitees, intended third party beneficiaries, and successors and assigns, over, under, through and across those portions of the Public Plaza, the 120th Avenue NE right-of-way, and the Totem Lake Boulevard right-of-way within ten feet (10') of any buildings or structures on the Property a perpetual right for installation, placement, use and maintenance of awnings, signage (in accordance with an approved Master Signage Plan), light fixtures for illumination of the storefronts and buildings within the Property, items attached to buildings or overhanging the Public Plaza, the 120th Avenue NE right-of-way, and the Totem Lake Boulevard right-of-way and other fixtures associated with the buildings on the Property, so long as pedestrian passage is not unreasonably obstructed.

5. The Developer reserves unto itself, for the benefit of itself, and for the benefit of its Master Association, tenants, occupants, licensees, invitees, intended third party beneficiaries, and successors and assigns, over, under through and across the Public Plaza, the sidewalks along 120th Avenue NE right-of-way, and the Totem Lake Boulevard right-of-way, including Bicycle/Pedestrian Lanes, the continuous right of access for ingress, egress, repair, replacement and maintenance of the Public Plaza, the sidewalks along 120th Avenue NE right-of-way, and the Totem Lake Boulevard right-of-way, including Bicycle/Pedestrian Lanes, consistent with the obligations and maintenance duties of the Developer set forth in the Agreement.

6. In an effort to enhance the activity level in the Public Plaza, Developer shall be permitted (and shall reserve the right unto itself, for the benefit of itself, its tenants, licensees, invitees, intended third party beneficiaries, and successors and assigns, over, under, through and across the Public Plaza) to place certain kiosks, pavilions or similar structures (of a permanent or temporary nature) vending food, beverages, goods or services, and to place outdoor dining areas associated with tenant retail establishments located adjacent to the Public Plaza, within the Public Plaza at initial location(s) which shall be memorialized in the perpetual non-exclusive easement granted to the City in accordance with the Agreement. The foregoing placement and usage of the aforementioned structures and outdoor dining areas shall be subject to the further condition that pedestrian passage to public use shall not be unreasonably obstructed.

II. COVENANTS, CONDITIONS AND RESTRICTIONS.

1. Except as incident to the Developer's reservation of rights herein: (A) the Public Plaza shall be used for public purposes and activities of a nature and in a manner consistent with customary practices and operations of open-air shopping centers in the Pacific Northwest; provided, however, private events of the Developer may be authorized by the City from time-to-time in accordance with Section 4.8.3 of the Agreement; and (B) no business, retail, office or other

commercial uses shall be allowed within the Public Plaza without the advance prior written consent of the Developer, which consent may be withheld at the Developer's sole discretion, including, but not limited to, street vendors; retail kiosks; pavilions, espresso or coffee carts or stands; taverns, bars, nightclubs, discotheques or any similar establishment; bowling alleys; theatres; health clubs or spas; service stations or automobile repair facilities; schools; public markets, open-air markets, farmer's markets or similar activities; car washes; dry cleaning or laundry facilities, adult type bookstores or other establishments selling, displaying or exhibiting pornographic materials or providing adult type entertainment or displays of a variety involving or depicting nudity or lewd acts; massage parlors; skating rinks; or mortuaries. Types of events that are anticipated by the City on the Public Plaza include craft market/art fairs; run/walk/bike athletic events; music festivals and or summer concerts; food/drink festivals; and cultural events, which are acceptable as long as the event will not result in breach of a tenant lease on the Property.

2. Except as incident to the Developer's or intended third party beneficiaries' use of the adjoining Property, no barriers, fences, grade changes or other obstructions or uses of the Public Plaza shall be erected so as to impede or interfere in any way with the free flow of vehicular and pedestrian traffic between the Public Plaza and the Property, or in any manner that will unreasonably restrict or interfere with the use and enjoyment of the Property by the Developer and the public. The preceding sentence shall not prohibit the City from temporarily closing or blocking traffic on the Public Plaza for a reasonable period of time as necessary for (A) "events" contemplated in the Agreement, provided that arrangements must be made for adequate and unobstructed pedestrian access to any businesses located adjacent to the Public Plaza, or (B) reasonable traffic regulation and control, or for maintenance, improvement or repair of roadways, streets, sidewalks or other improvements located within the Public Plaza.

3. All utilities installed and located within the Public Plaza shall be underground if reasonably possible, except for (a) manhole and manhole covers, which shall be flush with the adjacent grade, and (b) any utilities servicing the Developer uses, which shall only be above-ground to the extent necessary to be employed by the user.

4. Hazardous materials shall not be used, or permitted to be used, on, about, under or in the Public Plaza except at all times in compliance with applicable federal, state and local environmental statutes, ordinances, rules and regulations.

5. No changes or alterations and no buildings or structures, shall be made or constructed in the Public Plaza by the City without the advance written consent of the Developer, which consent may be withheld at the Developer's sole discretion.

EXHIBIT F

Transportation and Park Impact Fee Agreement

EXHIBIT G

School Impact Fee Agreement

EXHIBIT H

City Cost-Sharing and Public Benefits Table

KIRKLAND CITY COUNCIL SPECIAL MEETING

**Kirkland Business Roundtable
Kirkland City Hall
Council Chamber
123 Fifth Avenue
Kirkland, WA 98033**

**October 9, 2019
8:00 a.m.**

Minutes

1. CALL TO ORDER

The event commenced at 8:00 a.m.; due to an expected quorum of Councilmembers in attendance, the event was noticed as a special City Council meeting.

2. ROLL CALL

Present: Mayor Penny Sweet and Councilmembers Dave Asher, Kelli Curtis and Toby Nixon.

3. BUSINESS ROUNDTABLE AGENDA

Topics on the agenda included the The Village at Totem Lake Update, Regional and Local Transportation Projects and a Startup 425 Presentation.

4. ADJOURNMENT

The October 9, 2019 Kirkland Business Roundtable event/Special Meeting of the Kirkland City Council concluded at 9:35 a.m.

Kathi Anderson, City Clerk

Penny Sweet, Mayor

KIRKLAND CITY COUNCIL SPECIAL MEETING

**City Hall for All
Kirkland City Hall
Council Chamber
123 Fifth Avenue
Kirkland, WA 98033**

**October 12, 2019
12 p.m.**

Minutes

1. CALL TO ORDER

The event commenced at 12:00 p.m.; due to an expected quorum of Councilmembers in attendance, the event was noticed as a special City Council meeting.

2. ROLL CALL

Present: Mayor Penny Sweet and Councilmembers Dave Asher, Kelli Curtis, Toby Nixon and Jon Pascal.

3. CITY HALL FOR ALL

The event focused on activities for the public including "Truck-a-Palooza" and a Sustainability Fair and Summit at which the Mayor welcomed attendees. No official actions were taken by the City Council.

4. ADJOURNMENT

The October 12, 2019 City Hall for All event/Special Meeting of the Kirkland City Council concluded at 5 p.m.

Kathi Anderson, City Clerk

Penny Sweet, Mayor

1. CALL TO ORDER

Mayor Sweet called the study session to order at 6 p.m. and called the regular meeting to order at 7:30 p.m.

2. ROLL CALL

ROLL CALL:

Members Present: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Kelli Curtis, Councilmember Tom Neir, Councilmember Toby Nixon, Councilmember Jon Pascal, and Mayor Penny Sweet.

Members Absent: None.

3. STUDY SESSION

a. City Wide Connections

Joining Councilmembers for the discussion were City Manager Kurt Triplett, Assistant City Manager James Lopez, Deputy Director John Starbard, Development Engineering Manager John Burkhhalter, Transportation Manager Joel Pfundt, and Neighborhood Services Outreach Coordinator David Wolbrecht.

4. EXECUTIVE SESSION

a. Closed Session to Discuss Collective Bargaining

Mayor Sweet announced that the Council would recess into a closed session to discuss collective bargaining and would return to the regular meeting at 7:30 p.m., which they did. Also attending the session were City Manager Kurt Triplett, Deputy City Manager Tracey Dunlap, City Attorney Kevin Raymond, Police Chief Cherie Harris, Finance and Administration Director Michael Olson, Financial Planning Manager Shannon Olsen, and Human Resources Manager Shawn Friang.

5. HONORS AND PROCLAMATIONS

a. Retirement Recognition - Municipal Court Judge Michael J. Lambo

Mayor Sweet and Councilmember Nixon presented Judge Lambo with a proclamation and commemorative gavel recognizing his years of service at the Kirkland Municipal Court.

6. COMMUNICATIONS

- a. Announcements
- b. Items from the Audience

John Chadwick
Johanna Palmer
Teresa White
Bryce Graff
Tiana Bryant

- c. Petitions

7. PUBLIC HEARINGS

None.

8. SPECIAL PRESENTATIONS

- a. 2019 Annual Fall Employee Service Awards Recognition

Assistant City Manager James Lopez presented twenty-year service awards to Permit Technician Mary Isgrig, Maintenance and Inventory Control Dayleen Krueger, Lead Person Lee Winston, and Program Assistant Loni Rotter. Thirty-year service awards were presented to Fire Captain William Henderson, Senior Construction Inspector Steven Hoopes, Fire Captain Pat Hund, Firefighter Patrick McManus, Planning Manager Dawn Nelson, Firefighter Cliff Oleszko, Superintendent Ray Steiger, and Firefighter Joseph Ruljancich.

- b. Kirkland Performance Center Annual Report

Executive Director Jeff Lockhart shared an overview of the organization's vision, community impact, past year's events and fundraising efforts in addition to the current season program and strategic overview.

9. CONSENT CALENDAR

- a. Approval of Minutes

(1) October 1, 2019

- b. Audit of Accounts and Payment of Bills and Payroll

Payroll: \$3,120,886.11
Bills: \$3,817,864.79
CAA0219 check #s 708362 – 708543 wire #s 117, 118
CAA0819 check #s 708544 – 708637
LBA14A wire # 119

c. General Correspondence

d. Claims

(1) Claims for Damages

A claim received from Kyler Duclos was acknowledged via approval of the consent calendar.

e. Award of Bids

(1) NE 132nd Street Sidewalk Improvements Project

The construction contract for the NE 132nd Street Sidewalk Improvements Project (CNM 0071) was awarded to the lowest responsible bidder, Trinity Contractors, Inc. of Marysville, Washington, in the amount of \$297,090.00 via approval of the consent calendar.

f. Acceptance of Public Improvements and Establishing Lien Period

(1) Edith Moulton Park Renovation and 108th Avenue NE Sidewalk Improvements Project

The work of two Capital Improvement Projects, Edith Moulton Park Renovation (PKC 1330400) and 108th Avenue NE Sidewalk Improvements (NMC 1200000) as completed in a combined contract by Allied Construction Associates, Inc. of Everett, Washington was accepted, thereby establishing the statutory lien period, and the return of excess project funds in the amount of \$35,056.00 to the originating funding sources was approved via approval of the consent calendar.

g. Approval of Agreements

h. Other Items of Business

(1) Resolution R-5394, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ENTER INTO A CONTRACT WITH KIRKLAND MEMORY CARE, LLC, REGARDING A POTENTIAL MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION AND APPROVING THE ISSUANCE OF A CONDITIONAL CERTIFICATE OF TAX EXEMPTION."

(2) Resolution R-5395, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE CITY OF KIRKLAND'S ALLOCATION FOR THE NORTH EAST KING COUNTY REGIONAL PUBLIC SAFETY COMMUNICATIONS AGENCY (NORCOM) BUDGET."

(3) Planning Commission Resignation and Appointment

Council acknowledged the resignation of Mathew Pruitt from the Planning Commission, authorized the draft letter thanking him for his service, and appointed alternate Rodney Rutherford to fill the vacancy for the remainder of the unexpired term ending March 31, 2020, effective immediately, via approval of the consent calendar.

(4) Procurement Report

Council acknowledged the report on procurement activities for the period of September 19, 2019 to October 3, 2019 via approval of the consent calendar.

Motion to Approve the Consent Calendar.

Moved by Councilmember Kelli Curtis, seconded by Councilmember Toby Nixon

Vote: Motion carried 7-0

Yes: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Kelli Curtis, Councilmember Tom Neir, Councilmember Toby Nixon, Councilmember Jon Pascal, and Mayor Penny Sweet.

10. BUSINESS

- a. Resolution R-5393, Adopting a Master Plan for 132nd Square Park and Providing for Funding Options and Updated Athletic Field Use Policies

Parks and Community Services Director Lynn Zwaagstra reviewed the proposed resolution and plan for Council consideration.

Motion to Approve Resolution R-5393, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND ADOPTING A MASTER PLAN FOR 132ND SQUARE PARK AND PROVIDING FOR FUNDING OPTIONS AND UPDATED ATHLETIC FIELD USE POLICIES."

Moved by Councilmember Jon Pascal, seconded by Councilmember Kelli Curtis
Vote: Motion carried 7-0

Yes: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Kelli Curtis, Councilmember Tom Neir, Councilmember Toby Nixon, Councilmember Jon Pascal, and Mayor Penny Sweet.

- b. Resolution R-5396, Authorizing the City Manager to Sign a Temporary Road and Construction Access Agreement with Kirkland Urban Phase III Owner, LLC for the Temporary Use of City Property for the Purpose of Construction Access, Construction Staging and the Construction of Public Utilities and Park Improvements to be Permanently Located in the Easterly Edge of Peter Kirk Park

Development Engineering Manager John Burkhalter provided a recap of the proposed project agreement and responded to Council questions.

Motion to Approve Resolution R-5396, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO SIGN A TEMPORARY ROAD AND CONSTRUCTION ACCESS AGREEMENT WITH KIRKLAND URBAN PHASE III OWNER, LLC FOR THE TEMPORARY USE OF CITY PROPERTY FOR THE PURPOSE OF CONSTRUCTION ACCESS, CONSTRUCTION STAGING AND THE CONSTRUCTION OF PUBLIC UTILITIES AND PARK IMPROVEMENTS TO BE PERMANENTLY LOCATED IN THE EASTERLY EDGE OF PETER KIRK PARK."

Moved by Councilmember Kelli Curtis, seconded by Deputy Mayor Jay Arnold

Vote: Motion carried 7-0

Yes: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Kelli Curtis, Councilmember Tom Neir, Councilmember Toby Nixon, Councilmember Jon Pascal, and Mayor Penny Sweet.

c. Eastrail Partners Funding Contribution Update

Transportation Planner Kimberly Scrivner provided a brief overview of the project activities and funding request and introduced Eastrail Partners Board Director Bill Finkbeiner, who contributed further background details and described the purpose and plan for the requested funding.

Motion to Authorize staff to bring back a fiscal note for Council approval authorizing a contribution by the City of Kirkland of up to \$10,000.00 to support establishing the Eastside Rail Corridor Funding Commission's new entity, called the Eastrail Partners.

Moved by Deputy Mayor Jay Arnold, seconded by Councilmember Tom Neir

Vote: Motion carried 7-0

Yes: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Kelli Curtis, Councilmember Tom Neir, Councilmember Toby Nixon, Councilmember Jon Pascal, and Mayor Penny Sweet.

d. Resolution R-5397, Authorizing a Feasibility Study Related to Construction of Regional Stormwater Facilities and Stormwater Mitigation

Surface Water Engineering Supervisor Jenny Gaus reviewed the options for the study scope for Council consideration and responded to Council questions and comment.

Motion to Approve Resolution R-5397, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING A FEASIBILITY STUDY RELATED TO CONSTRUCTION OF REGIONAL STORMWATER FACILITIES AND STORMWATER MITIGATION."

Moved by Councilmember Kelli Curtis, seconded by Councilmember Toby Nixon

Vote: Motion carried 7-0

Yes: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Kelli Curtis, Councilmember Tom Neir, Councilmember Toby Nixon, Councilmember Jon Pascal, and Mayor Penny Sweet.

Council recessed for a short break.

e. City Council Committees - Evaluation and Recommendation

Deputy City Manager Tracey Dunlap reviewed the process and staff recommendation and responded to Council questions.

Motion to Approve the staff recommendation that the present Council committee structure be replaced starting in January 2020 with extended multiple topic sessions and periodic retreats and that staff be directed to prepare appropriate amendments to the Council Policies and Procedures for Council approval.

Moved by Councilmember Dave Asher, seconded by Councilmember Kelli Curtis
Vote: Motion carried 7-0

Yes: Deputy Mayor Jay Arnold, Councilmember Dave Asher, Councilmember Kelli Curtis, Councilmember Tom Neir, Councilmember Toby Nixon, Councilmember Jon Pascal, and Mayor Penny Sweet.

11. REPORTS

a. City Council Regional and Committee Reports

Councilmembers shared information regarding a recent tour of the Village at Totem Lake; the centennial celebration for Life Community Church; the Sound Cities Association Public Issues Committee meeting; the Teaming Up! Affordable Housing Workshop at St. Luke's Lutheran Church in Bellevue; the City Hall for All Truck-a-palooza and Sustainability Fair events; a ribbon cutting event at Ivar's Seafood Bar; the Sophia Way Benefit Luncheon; a Kirkland Business Roundtable; a number of Walk to School events; Bellevue and Redmond Youth Center tours; an upcoming Finn Hill Neighborhood Alliance; an upcoming Splash Forward meeting; the upcoming Peter Kirk Elementary grand opening; the Smart Cities Connect Fall Conference and Expo; an Eastside Human Services Forum meeting; a future discussion about facilitated greenbelt easements; the presentation of a proclamation to the Seattle Repertory Jazz Orchestra; a King County Regional Water Quality Committee meeting; the Kirkland Performance Center annual gala and auction where Doreen Marchione received a posthumous lifetime achievement award; a King County Metropolitan Solid Waste Management Advisory Committee meeting; a Puget Sound Regional Council Project Selection Committee meeting; a Challenge Seattle housing meeting with Christine Gregoire; a Cascade Water Alliance meeting; and a US Global Leadership Coalition luncheon.

b. City Manager Reports

City Manager Kurt Triplett updated the City Council on the Information Technology Director recruitment; the Municipal Judge appointment process; the School Resource Officer Taskforce process; and the inaugural Community Safety Advisory Group meeting.

(1) Calendar Update

City Manager Kurt Triplett noted the change of the upcoming Council meeting to Wednesday, November 6. Councilmember Nixon requested an update on post-Menchie's incident activities and NORCOM protocol changes.

12. ITEMS FROM THE AUDIENCE

None.

13. ADJOURNMENT

The Kirkland City Council October 15, 2019 regular meeting was adjourned at 10:09 p.m.

Kathi Anderson, City Clerk

Penny Sweet, Mayor



CITY OF KIRKLAND
Department of Finance and Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager
From: Kathi Anderson, City Clerk
Date: October 29, 2019
Subject: CLAIM(S) FOR DAMAGES

RECOMMENDATION

It is recommended that the City Council acknowledge receipt of the following Claim(s) for Damages and refer each claim to the proper department (risk management section) for disposition.

POLICY IMPLICATIONS

This is consistent with City policy and procedure and is in accordance with the requirements of state law (RCW 35.31.040).

BACKGROUND DISCUSSION

The City has received the following Claim(s) for Damages from:

- (1) Lauren Acton
230 5th Avenue
Kirkland, WA 98033

Amount: \$290.28

Nature of Claim: Claimant states damage occurred to her vehicle tire from a nail she believes originated from a nearby street construction project.

- (2) Arlette Cox for Harbour House Condominiums
311 2nd Street South, Apt. 103
Kirkland, WA 98033

Amount: \$2,200.00

Nature of Claim: Claimant states damage occurred to brick wall following a City sidewalk grinding project.

- (3) Horsfield and Hutcheon
10710 Slater Avenue
Kirkland, WA 98033

Amount: \$7,402.62

Nature of Claim: Claimants state damage occurred to the residential sewer system and effluent pump resulting from a City construction project on 108th Street and 124th Avenue.

- (4) Shelley B. Lavigueure
5128 168TH Street, Apt. H102
Seatac, WA 98198

Amount: Undetermined

Nature of Claim: Claimant states damage occurred to her parked vehicle when struck by a City Public Works vehicle.

- (5) Steve J. Layton & Department of Labor and Industries, Assignee
2227 Madison Street
Shelton, WA 98584

Amount: \$600,000.00

Nature of Claim: Claimant states that he sustained on the job injuries resulting from an uncovered drain hole installed during a City construction project.

- (6) Mark Locken
3880 113th Avenue NE
Bellevue, WA 98004

Amount: \$400.00

Nature of Claim: Claimant states damages occurred to his vehicle wheel as a result of striking a pot hole on 6th Street.

- (7) Karla J. Lynch
12805 NE 104th Street
Kirkland, WA 98033

Amount: \$249.09

Nature of Claim: Claimant states damage occurred to her vehicle as a result of striking unmarked sidewalk construction infrastructure.

- (8) Eric Q. Pinick
12956 Holmes Point Drive
Kirkland, WA

Amount: \$948.50

Nature of Claim: Claimant states damages resulted from the removal and disposal of retaining wall materials during a sidewalk construction project.

- (9) Bonnie Pittis
231 South 177th Place, #D-201
Seattle, WA 98148

Amount: \$500,000.00

Nature of Claim: Claimant states that she sustained injuries when she tripped and fell on a Market Street sidewalk.

Note: Names of Claimants are no longer listed on the Agenda since names are listed in the memo.



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kathi Anderson, City Clerk
Michael Olson, Director of Finance and Administration

Date: October 21, 2019

Subject: Resignation of Human Services Commission Board Member

RECOMMENDATION:

That Council acknowledges receipt of Adam White's resignation from the Kirkland Human Services Commission and authorizes the attached draft response thanking him for his past years of service. By approving the consent calendar, the Council authorizes these actions.

BACKGROUND DISCUSSION:

Mr. White cites current time demands in his professional and personal life which lead him to resign his seat on the Commission. As the previously selected alternate timeframe has passed, a new recruitment is necessary. Staff will develop options for such a recruitment to present to the Council at the November 6th Council meeting.

From: Adam White

Sent: Saturday, October 19, 2019 2:03 PM

To: City Council <citycouncil@kirklandwa.gov>

Cc: Leslie Miller <LMiller@kirklandwa.gov>; Lynn Zwaagstra <LZwaagstra@kirklandwa.gov>

Subject: HSC Resignation

Dear City Council Members,

This is not an easy message to type out, but I am resigning from the Human Services Commission. I am finding that being back at school as a teacher and being a dad is more than a full-time job. It is difficult to even do my job adequately, let alone doing the things necessary for the HSC. I feel that staying on with the commission at this time is a disservice to them and the community because I am not able to commit the time and energy it takes to do the job well.

With that I am resigning from the Human Services Commission, effective October 31st. I admire all the work the commission does and hope that I can be a service to them, and you, in the future.

-Adam White

DRAFT

November 6, 2019

Adam White
14310 75th Ave. NE
Kirkland, Washington 98034

Dear Mr. White,

We have received your resignation from the Kirkland Human Services Commission.

The City Council appreciates your contributions to the Committee during your past service, and we thank you for volunteering your time and talent to serve the Kirkland community.

Best wishes in your current and future endeavors.

Sincerely,

Kirkland City Council

By Penny Sweet,
Mayor



CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Lorrie McKay, Intergovernmental Relations & Economic Development Manager

Date: October 29, 2019

Subject: 2020 STATE LEGISLATIVE PRIORITIES

RECOMMENDATION:

It is recommended that the City Council approve the attached resolution adopting the City's 2020 State Legislative Priorities (Attachment A). By taking action on the consent agenda, this resolution will be approved.

BACKGROUND DISCUSSION:

The City's State Legislative Agenda consists of three segments: general principles; top legislative "priorities;" and selected issues/items championed by allies, which the City may "support" (i.e., these are not the top priority items). This memo only addresses the top legislative priorities for 2020. The agenda's priority items represent the primary focus for Council's Legislative Workgroup, the Intergovernmental Relations & Economic Development Manager and the City's contract lobbyists during session. Staff will return to Council with a draft "support items" agenda for review and consideration at one of Council's regular meetings in January 2020.

The 2020 legislative session is the second year of the biennium and it is a short, 60-day session that will begin on Monday, January 13 and end Friday, March 18.

The City Council's Legislative Workgroup recommended a modest set of 2020 legislative priorities for the full Council's consideration on October 1. The priorities are based on the City's Work Program, on Council level discussions at regular public meetings throughout the year, on ideas that offset the loss of the Annexation Sales Tax Credit, as well as ideas for relatively small capital budget projects.

Proposed Changes to the October 1 Draft 2020 Legislative Priorities (Attachment B)
Council did not propose any changes to the draft 2020 legislative priorities presented on October 1.

In the interim since the October 1 Council meeting, Public Works staff informed the Intergovernmental Relations & Economic Development Manager that one of the projects listed as a potential small capital budget project is almost complete. Staff has removed the NE 104th Street sidewalk project from the list of potentials, and Public Works staff are working to identify a possible replacement.

Draft 2020 Support Items Agenda

Staff will return to Council with a draft “support items” agenda for review and consideration at one of Council’s regular meetings in January 2020.

Council’s Legislative Workgroup has recommended moving the following two items from the City’s 2019 priorities agenda to the City’s 2020 Support Items agenda. These issues, and others have other well-organized champions advocating for them, which the City of Kirkland may support:

- Support continued sustainable funding to maintain high-quality statewide training for law enforcement officers and corrections officers to ensure no waiting period to get law enforcement and corrections officers trained and in the field;
- Support gun safety measures that promote safe and responsible gun ownership and reduce gun violence, and that are consistent with the 2nd Amendment of the US Constitution and Article I Section 24 of the Washington State Constitution.

At Council’s October 1, 2019 regular meeting, Councilmember Neir observed that the draft 2020 priorities presented did not include an environmental priority and he encouraged that the City at least put a focus on monitoring environmental legislation in Olympia. Staff described that the City typically includes the environmental priorities of several ally-organizations on the Legislative Support Items Agenda. Deputy Mayor Arnold also highlighted that King County-Cities Climate Collaborative (K4C) typically takes the lead on a host of environmental issues in Olympia and councilmembers were invited to a K4C meeting in October to work on drafting its 2020 legislative agenda. Historically, Kirkland has added the K4C’s legislative priorities to the City’s Support Items Agenda. For example, the City included the environmental legislative priorities of four of its organizational allies (King County-Cities Climate Collaborative, Indivisible Kirkland, People for Climate Action Kirkland, and Shift Zero) on the City’s 2019 Legislative Support Items Agenda.

*Excerpted from Kirkland’s 2019 Support Items Agenda
- adopted February 5, 2019*

King County-Cities Climate Collaborative (K4C)

Climate Policy

K4C supports comprehensive science-based limits and a market-based price on carbon pollution and other greenhouse gases.

- Support a price on carbon based on best available science that reinvests a substantial share of revenues in efforts to reduce greenhouse gas emissions (e.g., transit service, energy efficiency and renewable energy projects, forest protection and restoration), prioritize investments that benefit communities most impacted by climate change, and ensure a just transition for workers in fossil fuel industries.
- Support policies that establish and use “cost of carbon” methods for analysis and decision making.
- Strengthen state climate change targets to align with the Department of Ecology’s 2016 recommendations which are complementary to K4C and Growth Management Planning Council adopted targets.

Transportation and Land Use

K4C supports comprehensive state policies and investments that reduce emissions from the transportation sector by reducing vehicle miles travelled, lowering the GHG intensity of fuels, and catalyzing investments in clean passenger, transit, and heavy duty vehicles.

- Support, as part of a comprehensive strategy for reducing transportation-related greenhouse gas emissions:

- Protection for and expansion of funding for public transit;
- Adoption of cleaner fuel standards;
- Incentives and investments for electrification of public and private fleets and lower pollution from transportation fuels;
- Continued funding and expansion as in previous years of the Commute Trip Reduction program and the Regional Mobility Grant program.
- Policies and incentives to support transit friendly development and easy connections in vicinity of planned rail and high capacity transit and employment centers.
- Follow through on principles for the VW Funding Settlement developed by the Puget Sound Clean Air Agency in partnership with King County and several K4C partners

Green Building and Energy Efficiency

K4C supports state policy changes and investments that will help us to reduce energy use in existing buildings 25% below 2012 levels by 2030 and achieve net-zero GHG emissions in new buildings by 2030.

- Continue to strengthen our Washington State Energy code, leading the way to “net-zero emissions” buildings by 2030.
- Support policies that reduce energy use and save money for King County residents and businesses.
- Provide State Department of Commerce grants to leverage energy efficiency and renewable energy investments by local governments.

Energy Supply

K4C supports state policy updates and investments that will help us meet our goals for a 90% renewable electricity supply by 2030, phase out coal-fired electricity sources by 2025, limit construction of new natural gas based electricity power plants, and lead to development of increasing amounts of renewable energy sources.

- Continue to support a clear, accelerated timeline for retirement of coal from PSE's energy supply in manner that protects ratepayers and maximizes replacement with renewable sources rather than natural gas.
- Support changes in the utility Integrated Resource Planning process that promote consideration of environmental and health costs and greater emphasis on energy efficiency and demand management.
- Require increasing percentages of new energy load to be met by renewable sources and energy efficiency. Washington State's current renewable portfolio standard is currently at 9% of utility load, increasing to 15% by 2020 and years beyond.
- Support distributed solar energy generation. Current state legislation limits the size of solar arrays that qualify for retail electricity rates and limits the cumulative generating capacity available for these renewable energy systems. We support policy changes that would expand utility limits for these systems and allow for development of larger solar installations while considering both the benefits of increased distributed solar energy generation and rate payer fairness.

Indivisible Kirkland

- Climate Change
Indivisible Kirkland supports a clean energy economy that benefits our communities, workers, and ecosystems while supporting social and economic justice in our state. Washington's unique and precious natural resources must be protected from pollution, misuse, and destruction so that our environment and communities remain healthy for future generations. The voters of Washington state, through Initiative 1631, are demanding Washington take the bold and dramatic steps necessary to combat climate change.

People for Climate Action Kirkland

Support for certain elements Governor Inslee's Climate Legislation Package

100% Clean Energy

Clean electricity is the foundation of Washington's clean energy economy. Inslee's legislation will put Washington on a pathway to carbon-neutral electricity by 2030 and 100 percent clean electricity by 2045.

Clean Buildings

Retrofitting old buildings and updating standards for new ones is the fastest and cheapest way to cut carbon emissions. It yields tremendous cost savings and creates good-paying jobs. Inslee's plan also sets efficiency standards for natural gas to ensure utilities continue to meet conservation requirements.

Clean Transportation

Thanks to our state's clean electric grid, transitioning to EVs means big reductions in carbon pollution. Inslee's proposal continues to promote electric vehicles and ferries and will ensure electric and zero-emission vehicle options are a more affordable and convenient option for consumers

Clean Fuel Standard

Cars and trucks alone emit nearly one-third of the state's carbon pollution. This package supports legislation to enact a clean fuel standard similar to those in place in Oregon, California and British Columbia. This would require fuel providers to reduce the carbon intensity of fuels by 10 percent by 2028 and 20 percent by 2035.

Eliminating HFC Super-Pollutants

Hydrofluorocarbons, or HFCs, are greenhouse gases that can be thousands of times more damaging to the climate than carbon dioxide. Climate-safe alternatives are available. The package supports legislation to phase out use of HFCs in Washington state.

Shift Zero

Shift Zero is alliance of public, private and non-profit organizations focused on moving buildings toward a zero net carbon footprint

Property Assessed Clean Energy Resilience (PACER) financing

"PACE" financing is an approach to financing that is believed to reduce barriers for owners seeking to improve and extend the life of their buildings. PACE is an acronym for Property Assessed Clean Energy. Because PACE loans can be used to finance energy efficiency, renewable energy, water conservation, fire protection, seismic, or flood readiness enhancements, Shift Zero has added an "R" to PACE to emphasize that this type of financing can cover Resilience measures in addition to clean energy measures. PACER financing provides a way for local government and local lenders to cooperate on loans secured by the property tax obligation, similar to a local improvement district. The debt does not appear as an obligation on the building owner's balance sheet, and the repayment obligation stays with the property rather than the owner whenever the building is sold. Many such loan programs do not require money down. Loan payments are largely offset by lower utility bills and lower insurance premiums.

As mentioned, staff will return with a draft legislative "support items" agenda for Council's review and consideration at one of Council's regular meetings in January 2020.

The City Council's Legislative Workgroup

The City Council's Legislative Workgroup, consisting of Mayor Sweet, Deputy Mayor Arnold and Councilmember Curtis, is staffed by the City Manager and the Intergovernmental Relations & Economic Development Manager, with participation from Waypoint Consulting Group, the City's contracted lobbyist. Deputy Mayor Arnold is the Chair the Legislative Workgroup, which guides the development of the City's legislative priorities and activities. During session, the Workgroup

meets weekly to track the status of the City's priorities and it provides support and oversight of strategies for achieving the priorities.

It is the goal of the Legislative Workgroup to have the City's 2020 legislative priorities adopted before it hosts its annual legislative coffees with the city's delegation that are scheduled in November and December.

The City's State Legislative Delegation

The City of Kirkland includes three legislative districts – 1st, 45th, and 48th.

Legislative District 1

As a reminder, the 1st Legislative District has seen some changes. Guy Palumbo resigned from the Senate seat and Representative Derek Stanford was appointed to the open Senate seat. Bothell City Councilmember Davina Duerr was appointed to the House seat vacated by Derek Stanford. Representative Shelley Kloba holds the other House Seat in the 1st Legislative District.

Legislative District 45

The 45th Legislative District is represented by Senator Manka Dhingra. The House seats are currently held by Representative Larry Springer and Representative Roger Goodman.

Legislative District 48

The 48th Legislative is represented by Senator Patty Kuderer. The House seats are served by Representative Amy Walen and Representative Vandana Slatter.

State Lobbyists

Waypoint Consulting serves as Kirkland's State lobbyists. Waypoint partners Majken Ryherd and Teresita Torres participate in the legislative coffees.

NEXT STEPS:

With Council adoption of the City's 2020 Legislative Priorities, staff will organize and arrange for the annual legislative coffees with the city's delegation. In addition, staff will prepare the draft Support Items Agenda for Council's consideration in January 2020. Also in January, the Association of Washington Cities will host its annual City Action Days on Wednesday, January 28 and Thursday the 29.

Attachments: A. Proposed Final 2020 Legislative Priorities
B. Redline version of October 1, 2019 Draft 2020 Legislative Priorities Resolution



CITY OF KIRKLAND 2020 LEGISLATIVE AGENDA

General Principles

Kirkland supports legislation to promote the City Council's goals and protect the City's ability to provide basic municipal services to its citizens.

- Protect shared state revenue sources available to the City, including the State Annexation Sales Tax Credit, and provide new revenue options and flexibility in the use of existing revenues.
- Support long-term sustainability efforts related to City financial, environmental and transportation goals.
- Support reestablishing the partnership between cities and the State to ensure that critical mandates are funded and vital services are provided to all of the residents of the state.

City of Kirkland 2020 Legislative Priorities

- Kirkland supports new local funding and policy tools to address homelessness and create more affordable housing, such as:
 - Exempting homeless shelters from utility connection charges
 - Extending the date of a qualifying local tax for to an affordable housing levy to November 30, 2021
 - Adding Accessory Dwelling Units as improvements to Single Family Dwellings that qualify for a three-year property tax exemption
- Kirkland supports authorizing limited commission officers to review automated traffic safety camera citations
- Kirkland supports exempting street maintenance from the Public Works threshold limitations
- Kirkland supports capital budget funding for prioritized local infrastructure projects.
 - 90th Ave NE school walk improvements (1st LD)
 - Juanita Dr. - 79th Way NE to NE 120th St. (1st LD)
 - Lighting at 132nd Square Park (45th LD)
 - Lighting along CKC south of NE 124th St. and under I-405 (45th LD)
 - NE 104th St. Sidewalk project (48th LD)



CITY OF KIRKLAND 2020 LEGISLATIVE AGENDA

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- Support reestablishing the partnership between cities and the State to ensure that critical mandates are funded and vital services are provided to all of the residents of the state.

City of Kirkland 2020 Legislative Priorities

- Kirkland supports new local funding and policy tools to address homelessness and create more affordable housing, such as:
 - Exempting homeless shelters from utility connection charges
 - Extending the date of a qualifying local tax for to an affordable housing levy to November 30, 2021
 - Adding Accessory Dwelling Units as improvements to Single Family Dwellings that qualify for a three-year property tax exemption
- Kirkland supports authorizing limited commission officers to review automated traffic safety camera citations
- Kirkland supports exempting street maintenance from the Public Works threshold limitations
- Kirkland supports capital budget funding for prioritized local infrastructure projects.
 - 90th Ave NE school walk improvements (1st LD)
 - Juanita Dr. - 79th Way NE to NE 120th St. (1st LD)
 - Lighting at 132nd Square Park (45th LD)
 - Lighting along CKC south of NE 124th St. and under I-405 (45th LD)
 - ~~NE 104th St. Sidewalk project (48th LD)~~

RESOLUTION R-5398

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A CITY OF KIRKLAND LEGISLATIVE AGENDA TO BE ADDRESSED TO THE 2020 SESSION OF THE STATE LEGISLATURE.

1 WHEREAS, actions of the State Legislature in respect to
2 local government issues, services and funding have a profound
3 impact upon the ability of local governments to provide local
4 services; and

5
6 WHEREAS, the City Council supports legislation that
7 promotes the Council's goals and protects the City of Kirkland's
8 ability to provide municipal services to its residents; and

9
10 WHEREAS, the City seeks to protect shared state revenue
11 sources available to the City, including the State Annexation Sales
12 Tax Credit, and to provide new revenue options and flexibility in
13 the use of existing revenues; and

14
15 WHEREAS, the Council supports long-term sustainability
16 efforts related to City financial, environmental and transportation
17 goals; and

18
19 WHEREAS, the Council supports reestablishing the
20 partnership between cities and the State to ensure that critical
21 mandates are funded and vital services are provided to all of the
22 residents of the state; and

23
24 WHEREAS, the Council believes it appropriate to set forth
25 its position as to issues affecting local government operations
26 coming before the State Legislature during its 2020 session,
27 including issues which the Council requests the Legislature to
28 consider.

29
30 NOW, THEREFORE, be it resolved by the City Council of the
31 City of Kirkland as follows:

32
33 Section 1. The "General Principles" and "City of Kirkland
34 2020 Legislative Priorities" set forth in the "City of Kirkland 2020
35 Legislative Agenda," attached as Exhibit A and by this reference
36 incorporated, are adopted as the City's recommendations to the
37 State Legislature during its 2020 session.

38
39 Section 2. The City administration shall transmit the 2020
40 Legislative Agenda, including any subsequent changes or updates,
41 to members of the State Legislature representing the legislative
42 districts in which Kirkland is located, together with other members
43 of the State Legislature and to the Association of Washington
44 Cities, the Sound Cities Association and other ally organizations.
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Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2019.

Signed in authentication thereof this ____ day of _____, 2019.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

**CITY OF KIRKLAND****Department of Public Works**

123 Fifth Avenue, Kirkland, WA 98033 425.587.3800

www.kirklandwa.gov

MEMORANDUM**To:** Kurt Triplett, City Manager**From:** John Starbard, Deputy Director of Public Works
Kathy Brown, Director of Public Works**Date:** October 24, 2019**Subject:** REAL ESTATE PURCHASE AND SALE AGREEMENT—14256-100TH AVENUE NE**RECOMMENDATION:**

Staff recommends that the City Council approve the attached authorizing the City Manager to execute a Real Estate Purchase and Sale Agreement with King County to purchase vacant property at 14256-100th Avenue NE and to authorize the use of funds as detailed in the attached fiscal note.

By taking action on this item during approval of the Consent Calendar, the City Council is authorizing the purchase of real property from King County and authorizing an expenditure of approximately \$363,000.

BACKGROUND DISCUSSION:

The City soon will begin construction of improvements to the 100th Avenue NE corridor. During the design stage of the corridor, staff identified a 20-foot-wide segment of a King County-owned parcel at that jugged into the right-of-way. The parcel was originally purchased by the County for road purposes, and the County arguably should have dedicated the west 20 feet as right-of-way at the time of the Juanita, Finn Hill, Kingsgate annexation in 2011. City staff worked to resolve the right-of-way dedication issue with County staff and King County did agree to dedicate the 20-foot-wide segment as right-of-way. During this process, City staff also noticed that the balance of the property was vacant and could have some future surface water management benefits to the City, as identified in the Surface Water Master Plan (See Attachment A, Vicinity Map).

Looking for ways to fund the purchase, staff explored grant options with the King Conservation District (KCD). Staff applied for a KCD grant, walked and inspected the property with KCD staff, and in June 2019 was notified that the City had been awarded a grant of \$139,225 to facilitate the property purchase. Staff does not have a preliminary design for surface water management enhancements on the site at this time, though both KCD and the City see the potential for such improvements on the site. Staff has discussed augmenting those enhancements with a walking trail(s), and the site offers open space benefits. The grant requires only passive uses.

Terms of Proposed Agreement

King County provided its standard Real Estate Purchase and Sale Agreement to the City, which has been reviewed by the City Attorney and the form of which the City has used in the past for other real estate purchases from the County.

In summary, the terms of the purchase are:

PURCHASE PRICE:	\$360,000
AUTHORIZATION:	Must be authorized by the parties' respective legislative bodies
EFFECTIVE DATE:	Upon execution of agreement by both parties
DEPOSIT:	\$20,000 to be provided within 5 days of Effective Date
DUE DILIGENCE:	60 days provided to City from Effective Date
ESCROW:	Stewart Title; Title Commitment within 15 days of Effective Date
OTHER CITY COSTS:	Title Commitment (\$1,100) ½ Escrow Fee (\$936) Recording Fee (\$350) Courier Fees (\$55) Due Diligence Reports (TBD) Right-of-Entry Insurance (if needed, TBD) <i>* Costs above are estimates; other costs may be added</i>
CONDITION:	"As is/Where is"
CLOSING:	Within 15 days of removal of all contingencies
FORM OF DEED:	Bargain and Sale Deed

The property has been professionally appraised, and that appraisal has had a review appraisal.

Staff would conduct an additional inspection of the site during the due diligence period and may determine some site analyses and/or reports are prudent.

Proposed Funding Sources for Purchase

Purchase of the site is proposed to be from the KCD grant of \$139,225 and \$223,775 from the Surface Water Project Acquisition Fund. The Surface Water Fund was established with the purpose of having funding available to purchase properties desired to fulfill objectives of the Surface Water Master Plan. The Acquisition Fund also would be the source of related property acquisition costs (e.g., the title commitment). The grant from KCD will provide reimbursement to the City after the purchase is made; the City will need to front KCD's share of the purchase.

NEXT STEPS:

If the Council would like to make this real estate purchase, approval of the Resolution on the Consent Calendar will authorize the City Manager to execute the attached Purchase and Sale Agreement and authorize staff to apply funds as identified above.

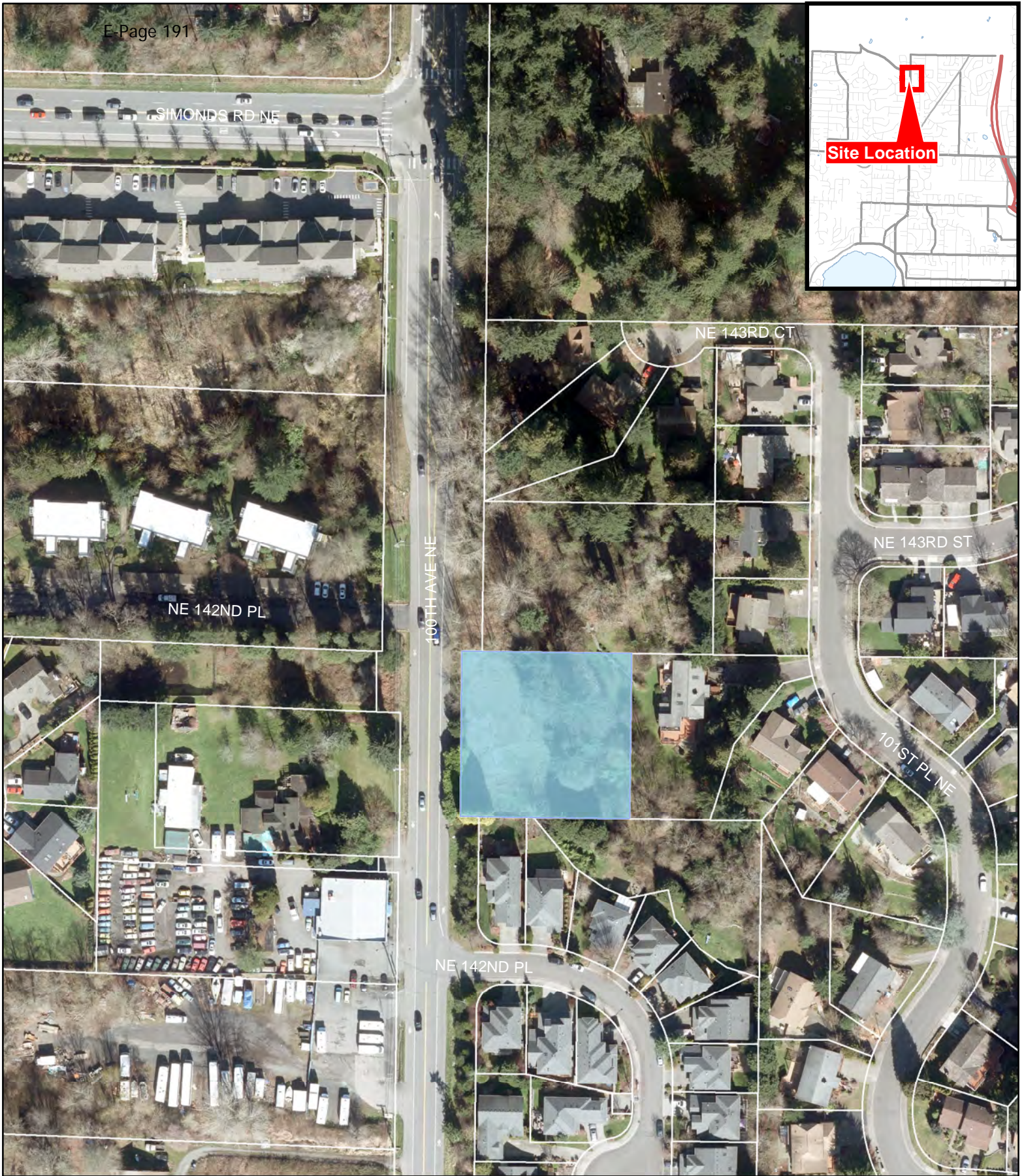
Action by the King County Council may not occur until after the new year, given the County Council's traditional focus on budget matters for the remainder of the calendar year. If the agreement is approved by the County Council, then City staff will provide the \$20,000 deposit and begin the due diligence period. The transaction could be completed in about late March, 2020.

Attachment A: Vicinity Map

Attachment B: Proposed Real Estate Purchase and Sale Agreement (with Exhibits)

Attachment C: Fiscal Note

Attachment D: Resolution



Attachment A

14256 100th Ave NE



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No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.
Printed 2019 - Public Works

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (“Agreement”) is made and entered by and between **KING COUNTY**, a political subdivision of the State of Washington (the “Seller”) and the City of Kirkland, a municipal corporation of the State of Washington (the “Buyer”). Seller and Buyer are also referred to herein individually as a “Party” or collectively as “Parties.” This Agreement shall be effective as of the date it has been executed by both Parties (“Effective Date”).

RECITALS

A. Seller is the owner of that certain real property located at 14256-100th Ave NE, King County, State of Washington, the legal description of which is attached hereto as **EXHIBIT A** (the “Real Property”).

B. Seller desires to sell the Real Property and Buyer desires to purchase the Real Property. The Parties are entering into this Agreement pursuant to the authority granted in the Intergovernmental Disposition of Property Act, RCW ch. 39.33.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and other valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties hereto covenant and agree as follows:

ARTICLE 1. PURCHASE AND TRANSFER OF ASSETS

1.1. PROPERTY TO BE SOLD. Seller shall sell and convey to Buyer on the Closing Date (as hereinafter defined) and Buyer shall buy and accept from Seller on the Closing Date the following assets and properties:

1.1.1. all the Seller’s right, title and interest in the Real Property as legally described in **EXHIBIT A**;

1.1.2. all of Seller’s right, title and interest in improvements and structures located on the Real Property, if any;

1.1.3. all of Seller’s right, title and interest in and to tangible personal property, if any, owned by the Seller and attached, appurtenant to or used in connection with the Real Property (“Personal Property”);

1.1.4. all of Seller’s easements and other rights that are appurtenant to the Real Property including but not limited to, Seller’s right, title, and interest in and to streets, alleys or other public ways adjacent to the Real Property, sewers and service drainage easements, rights of

connection to the sewers, rights of ingress and egress, and leases, licenses, government approvals and permits affecting the Real Property.

Hereinafter, the items listed in Section 1.1 are collectively referred to as the "Property."

ARTICLE 2. PURCHASE PRICE

2.1. PURCHASE PRICE AND PAYMENT. In consideration of the conveyance of the Property, Buyer shall, in full payment therefor, pay to Seller on the Closing Date a total purchase price of **Three-Hundred-Sixty Thousand and 00/100 Dollars (\$360,000.00)** (the "Purchase Price").

2.2. ALLOCATION OF PURCHASE PRICE. Seller and Buyer agree that the entire Purchase Price is allocable to the Real Property and that the value of the Personal Property, if any, is *de minimis*.

2.3. DEPOSIT. Within Five (5) business days after the Effective Date, Buyer shall deliver to Stewart Title Insurance Company, Nancy Smith (the "Escrow Agent"), in its capacity as the Parties' closing agent, immediately available cash funds in the amount of **Twenty-Thousand and 00/100 Dollars (\$20,000.00)** (the "Deposit"). The Deposit shall be invested by the Escrow Agent in a money market account, a federally insured investment or such other investment as may be approved by Seller and Buyer in writing. Accrued interest will be added to and become part of the Deposit. Upon deposit with Escrow Agent, the Deposit shall be non-refundable except as otherwise provided in this Agreement. The Deposit shall be applied as a credit against the Purchase Price at the Closing.

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF THE PARTIES AND CONDITION OF PROPERTY

3.1. WARRANTIES AND REPRESENTATIONS OF SELLER. As of the date hereof and as of the Closing Date, Seller represents and warrants as follows:

3.1.1. ORGANIZATION. The Seller is a political subdivision of the State of Washington duly organized, validly existing and in good standing under the laws of the State of Washington.

3.1.2. EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENT, AUTHORITY. The execution, delivery and performance of this Agreement by Seller (i) is within the powers of Seller as a political subdivision of the State of Washington, and (ii) subject to the

contingency in section 5.2 of this Agreement, has been or will be on or before the Closing Date, duly authorized by all necessary action of the Seller's legislative authority. This Agreement constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with the terms herein.

3.1.3. NO BROKER. No broker, finder, agent or similar intermediary has acted for or on behalf of Seller in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent or similar intermediary is entitled to any broker's, finder's or similar fee or commission in connection with this Agreement based on an agreement, arrangement or understanding with Seller or any action taken by Seller.

3.1.4. FUTURE AGREEMENTS. From and after the Effective Date unless this Agreement is terminated in accordance with its terms, Seller shall not without the prior written consent of Buyer:

(a) enter into any agreement, contract, commitment, lease or other transaction that affects the Property in any way; or

(b) sell, dispose of or encumber any portion of the Property.

3.1.5. FOREIGN PERSON. Seller is not a foreign person and is a "United States Person" as such term is defined in Section 7701 (a) (30) of the Internal Revenue Code of 1986 ("Code"), as amended and shall deliver to Buyer prior to the Closing an affidavit, as set forth in **EXHIBIT D**, evidencing such fact, and such other documents as may be required under the Code.

3.2. REPRESENTATIONS AND WARRANTIES OF BUYER. As of the date hereof and as of the Closing Date, Buyer represents and warrants as follows:

3.2.1. ORGANIZATION. Buyer is a Municipal Corporation duly organized, validly existing and in good standing under the laws of the State of Washington. Buyer has all requisite corporate power and authority to carry on its business as it is now being conducted in the place where such businesses are now conducted.

3.2.2. EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENT, AUTHORITY. The execution, delivery and performance of this Agreement by Buyer (i) is within the powers of Buyer as a Municipal Corporation, and (ii) has been or will be on or before the Closing Date, duly authorized by all necessary action of the Buyer's governing authority. This Agreement constitutes the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with the terms hereof.

3.2.3. NO BROKER. No broker, finder, agent or similar intermediary has acted for or on behalf of Buyer in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent, or similar intermediary is entitled to any broker's, finder's or similar fee or commission in connection with this Agreement based on an agreement, arrangement, or understanding with the Buyer or any action taken by the Buyer.

3.3. CONDITION OF PROPERTY.

3.3.1. SELLER DISCLOSURE STATEMENT. To the maximum extent permitted by RCW ch. 64.06, Buyer expressly waives its right to receive from Seller a seller disclosure statement (“Seller Disclosure Statement”) and to rescind this Agreement, both as provided for in RCW ch. 64.06. Seller and Buyer acknowledge and agree that Buyer cannot waive its right to receive the section of the Seller Disclosure Statement entitled “Environmental” if the answer to any of the questions in that section would be “yes.” Nothing in any Seller Disclosure Statement delivered by Seller creates a representation or warranty by the Seller, nor does it create any rights or obligations in the Parties except as set forth in RCW ch. 64.06. Buyer is advised to use its due diligence to inspect the Property as allowed for by this Agreement, and that Seller may not have knowledge of defects that careful inspection might reveal. Buyer specifically acknowledges and agrees that any Seller Disclosure Statement delivered by Seller is not part of this Agreement, and Seller has no duties to Buyer other than those set forth in this Agreement.

3.3.2. SELLER DISCLAIMER OF CONDITION OF THE PROPERTY. Except to the extent of Seller’s representations and warranties in Section 3.1. of this Agreement, Seller has not made, does not make, and specifically negates and disclaims any representations, warranties, promises, covenants, contracts or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning, or with respect to the value, nature, quality, or condition of the Property (collectively “Condition of the Property”), including, without limitation:

- (a) The water, soil and geology;
- (b) The income to be derived from the Property;
- (c) The suitability of the Property for any and all activities and uses that Buyer or anyone else may conduct thereon;
- (d) The compliance or noncompliance of or by the Property or its operation with any laws, rules, ordinances, regulations or decrees of any applicable governmental authority or body or the zoning or land use designation for the Property;
- (e) The habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property;
- (f) The manner or quality of the construction or materials, if any, incorporated into the Property and the existence, nonexistence or condition of utilities serving the Property;
- (g) The actual, threatened or alleged existence, release, use, storage, generation, manufacture, transport, deposit, leak, seepage, spill, migration, escape, disposal or other handling of any Hazardous Substances in, on, under or emanating from or into the Property, and the compliance or noncompliance of or by the Property or its operation with applicable

federal, state, county and local laws and regulations, including, without limitation, Environmental Laws and regulations and seismic/building codes, laws and regulations. For purposes of this Agreement, the term “Environmental Law” shall mean: any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health, safety, or the environment, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9602 et. seq. (“CERCLA”); the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq. (“RCRA”); the Washington State Model Toxics Control Act, RCW ch. 70.105D (“MTCA”); the Washington Hazardous Waste Management Act, RCW ch. 70.105; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Washington Water Pollution Control Act, RCW ch. 90.48, and any laws concerning above ground or underground storage tanks. For the purposes of this Agreement, the term “Hazardous Substance” shall mean: any waste, pollutant, contaminant, or other material that now or in the future becomes regulated or defined under any Environmental Law; or

(h) Any other matter with respect to the Property.

3.3.3. BUYER ACCEPTANCE OF CONDITION OF PROPERTY.

(a) Buyer acknowledges and accepts Seller’s disclaimer of the Condition of the Property in Section 3.3.2 of this Agreement.

(b) Buyer acknowledges and agrees that, within the Due Diligence Period as defined in Section 5.1 of this Agreement, Buyer will have conducted a physical inspection and made all investigations that Buyer deems necessary in connection with its purchase of the Property. Buyer further acknowledges and agrees that, having been given the opportunity to inspect the Property, Buyer is relying solely on its own investigation of the Property and is not relying on any information provided or to be provided by Seller. Buyer further acknowledges and agrees that any information provided or to be provided with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information and no employee or agent of Seller is authorized otherwise. Buyer further acknowledges and agrees that Seller is not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to the Property, or the operation thereof, furnished by any agent, employee, or contractor of Seller, any real estate broker, or any other person.

(c) Upon waiver or satisfaction by Buyer of its contingencies pursuant to Article 5, Buyer acknowledges and agrees that it will thereby approve and accept the Condition of the Property and accordingly agree to purchase the Property and accept the Condition of the Property “AS IS, WHERE IS” with all faults and patent or latent defects, including, without limitation, the actual, threatened or alleged existence, release, use, storage, generation, manufacture, transport, deposit, leak, seepage, spill, migration, escape, disposal or other handling of any Hazardous Substances in, on, under or emanating from or into the Property, and the compliance or noncompliance of or by the Property or its operation with applicable

federal, state, county and local laws and regulations including, without limitation, Environmental Laws and regulations and seismic/building codes, laws and regulations. Buyer acknowledges and agrees that, except to the extent of Seller's representations and warranties in Section 3.1. of this Agreement, Buyer shall have no recourse against the Seller for, and waives, releases and discharges forever the Seller from, any and all past, present or future claims or demands, and any and all past, present or future damages, losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown (collectively, "Losses"), which the Buyer might have asserted or alleged against the Seller arising from or in any way related to the Condition of the Property, including, without limitation, the actual, threatened or alleged existence, release, use, storage, generation, manufacture, transport, deposit, leak, seepage, spill, migration, escape, disposal or other handling of any Hazardous Substances in, on, under or emanating from or into the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or decree or by order of or agreement with any governmental authority, or that is conducted voluntarily, (b) losses for injury or death of any person, and (c) losses arising under any Environmental Law, whether or not enacted after transfer of the Property.

3.3.4. INDEMNIFICATION. From and after the Closing Date, Buyer shall indemnify, defend and hold Seller, its officers, agents and employees harmless from and against any and all Losses, liability, claim, agency order or requirement, damage and expense relating to or arising out of, directly or indirectly, the Property, including without limitation those relating to the actual or threatened release, disposal, deposit, seepage, migration or escape of Hazardous Substances at, from, into or underneath the Property, and the compliance or noncompliance of the Property with applicable federal, state, county and local laws and regulations including, without limitation, Environmental Laws and regulations.

3.4. RISK OF LOSS. Until the Closing Date, the risk of loss relating to the Property shall rest with the Seller. Risk of Loss shall be deemed to include any property damage occurring as a result of an "Act of God," including, but not limited to, earthquakes, tremors, wind, rain or other natural occurrence.

ARTICLE 4. TITLE MATTERS

4.1. CONVEYANCE. Seller shall convey to Buyer the title to the Property by bargain and sale deed in substantially the form attached hereto as **EXHIBIT B**, subject only to the Permitted Exceptions (as defined below), the lien of current real property taxes, fees and/or charges not yet due and payable, rights reserved in federal patents or state deeds, building or use restrictions general to the governing jurisdiction, and the matters excluded from coverage by the printed exceptions and exclusions contained in the form of title insurance policy required by Section 4.4 of this Agreement.

4.2. TITLE COMMITMENT. Buyer shall within fifteen (15) days after the Effective

Date obtain a preliminary commitment for an owner's standard coverage policy of title insurance (the "Title Commitment") issued by Stewart Title (the "Title Company"), describing the Property, listing Buyer as the prospective named insured and showing as the policy amount the total Purchase Price for the Property. At such time as the Title Company causes the Title Commitment to be furnished to Buyer, the Title Company shall further cause to be furnished to Buyer legible copies of all instruments referred to in the Title Commitment as restrictions or exceptions to title to the Property.

4.3. REVIEW OF TITLE COMMITMENT. Buyer shall have until twenty-five (25) days after the Effective Date (the "Review Period") in which to notify Seller in writing of any objections Buyer has to any matters shown or referred to in the Title Commitment ("Buyer's Objections"). Any exceptions or other items that are set forth in the Title Commitment and to which Buyer does not object within the Review Period shall be deemed to be permitted exceptions ("Permitted Exceptions"). With regard to items to which Buyer does object within the Review Period, Seller shall notify Buyer within ten (10) days after Seller receives Buyer's Objections of any exceptions to title which Seller will not remove or otherwise resolve ("Seller's Response"), and Buyer may, at Buyer's option, either proceed to Closing and thereby waive the Buyer's Objections not cured, in which case such exceptions to title shall be Permitted Exceptions, or Buyer may terminate this Agreement by notice to Seller within ten (10) days after receipt of Seller's Response. If the Title Company issues a supplement to the Title Commitment that identifies new exceptions, the procedure set forth in this Section 4.3 shall apply to such supplement, except that Buyer will have seven (7) days to make Buyer's Objections to any new exception, Seller shall have five (5) days to provide Seller's Response, and the Closing Date will be extended for the period necessary to allow the procedures set forth herein to be completed with regard to a timely objection.

4.4. OWNER'S TITLE INSURANCE POLICY. At the Closing, Buyer shall cause an owner's policy of title insurance to be issued by the Title Company in the full amount of the Purchase Price, effective as of the Closing Date, insuring Buyer that the fee simple title to the Property is vested in Buyer, subject only to the Permitted Exceptions, the lien of current real property taxes, fees and/or charges not yet due and payable, rights reserved in federal patents or state deeds, building or use restrictions general to the governing jurisdiction, and the matters excluded from coverage by the printed exceptions and exclusions contained in the form of title insurance policy required by the Title Company. The obligation of Buyer to provide the title policy called for herein shall be satisfied if, at the Closing, the Title Company has given a binding commitment, in a form reasonably satisfactory to Buyer, to issue the policies in the form required by this Section. If requested in writing by Seller, Buyer shall provide a copy of such binding commitment to Seller to verify satisfaction of this obligation as a condition to Seller being obligated to close. Buyer shall pay any sum owing to the Title Company for the preparation of the preliminary and binding commitments generated by the Title Company.

ARTICLE 5. CONTINGENCIES

5.1. DUE DILIGENCE INSPECTION AND FEASIBILITY. Buyer shall satisfy itself by

investigation and inspection, at its cost and expense in its sole and absolute discretion, that the condition of the Property for Buyer's contemplated use meets with its approval ("Due Diligence Contingency"). If Buyer is not satisfied with the condition of the Property, Buyer may terminate this Agreement by delivering written notice of termination to Seller within sixty (60) days of the Effective Date ("Due Diligence Period"). In such event this Agreement shall terminate, the Deposit shall be returned to Buyer and the Parties shall have no further obligations hereunder. If Buyer fails to give such notice to terminate within the Due Diligence Period or affirmatively gives notice that this Due Diligence Contingency is satisfied or waived within the Due Diligence Period, Buyer shall be obligated hereunder without further contingency and the Deposit shall be nonrefundable to Buyer except in the event of a default hereunder by Seller. Seller and Buyer may agree in writing to extend the Due Diligence Period.

5.1.1. INSPECTIONS. During the Due Diligence Period, Buyer, its designated representatives or agents shall have the right at its own expense to (a) perform any and all tests, inspections, studies, surveys or appraisals of the Property deemed necessary, on any subject, by the Buyer (subject to the limitations set forth below and Section 5.1.2 Right of Entry); (b) obtain a Phase I or Phase II Environmental Assessment on the Property and perform any and all tests, inspections and studies deemed necessary therewith; (c) examine all due diligence materials related to the Property that Buyer may reasonably request from Seller that are in Seller's possession and about which Seller has knowledge, and that are not protected as attorney work product, by the attorney-client privilege or by other similar confidentiality protections; (d) determine to its satisfaction whether approvals, permits and variances can be obtained under applicable land use and zoning codes for Buyer's proposed development of the property; and (e) determine whether Buyer's proposed development of the property is economically feasible.

5.1.2. RIGHT OF ENTRY. Buyer and Buyer's designated representatives or agents shall have the right and Seller hereby grants to Buyer and Buyer's designated representatives the right to enter the Property and conduct tests, investigations and studies set forth in this Article 5 upon three (3) days advance written notice; provided that such right of entry will be limited to those times and dates that will not disrupt Seller's use of, or Seller's operations and activities on the Property. Invasive tests of the Property, such as drilling or excavation shall be subject to Seller's prior written approval. If invasive tests are performed by Buyer, Seller may elect to obtain split samples of any sampling that is obtained and reimburse the Buyer for the costs thereof. The Buyer will not be permitted to undertake activities that damage the Property. In connection with any such inspections and tests, Buyer agrees to hold harmless, indemnify and defend Seller, its officers, agents and employees, from and against all claims, losses, or liability for injuries, sickness or death of persons, including employees of Buyer ("Claims") caused by or arising out of any act, error or omission of Buyer, its officers, agents, contractors, subcontractors or employees in entering the Property for the above purposes, except to the extent the Claims are caused by or arise out of any act, error or omission of Seller, its officers, agents and employees.

5.1.3 RIGHT OF ENTRY INSURANCE. Prior to the entry of Buyer or its contractors for invasive testing of the Property such as drilling or excavation, the entering party(ies) shall submit evidence of (1) Commercial General Liability coverage in the amount of

\$1,000,000 per occurrence and \$2,000,000 in the aggregate; (2) Automobile liability insurance in the amount of \$1,000,000; (3) Contractor's Pollution insurance in the amount of \$1,000,000 per claim and in the aggregate; and (4) Stop Gap/Employers Liability coverage in the amount of \$1,000,000. King County, its officers, officials, agents and employees shall be named as additional insureds.

5.2. METROPOLITAN KING COUNTY COUNCIL APPROVAL CONTINGENCY. Seller's performance under this Agreement is contingent on approval by ordinance of the conveyance of the Property by the Metropolitan King County Council ("Council Approval Contingency"). The Council Approval Contingency will be satisfied if an ordinance passed by the Metropolitan King County Council approving the conveyance of the Property becomes effective within one hundred twenty (120) days of the Effective Date ("Council Approval Period"). Seller may extend the Council Approval Period for up to an additional sixty (60) days. If the Council Approval Contingency is not satisfied within the Council Approval Period, this Agreement shall terminate, the Deposit shall be returned to Buyer and the Parties shall have no further obligations hereunder. If the Council Approval Contingency is satisfied within the Council Approval Period, Seller shall be obligated hereunder without further contingency except in the event of a default hereunder by Buyer.

ARTICLE 6. COVENANTS OF SELLER PENDING CLOSING

6.1. CONDUCT, NOTICE OF CHANGE. Seller covenants that between the Effective Date and the Closing Seller shall take all such actions as may be necessary to assure that the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing (except such representations, warranties and matters which relate solely to an earlier date), and all covenants of Seller set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided for in this Agreement. Seller shall give Buyer prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing.

ARTICLE 7. COVENANTS OF BUYER PENDING CLOSING

7.1. CONDUCT, NOTICE OF CHANGE. Buyer covenants that between the Effective Date and the Closing Buyer shall take all such actions as may be necessary to assure that the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing (except such representations, warranties and matters which relate solely to an earlier date), and that all covenants of Buyer set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided in this Agreement. Buyer shall give Seller prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing.

ARTICLE 8.
CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS

All obligations of Buyer to close on the Closing Date are subject to the fulfillment of each of the following conditions at or prior to the Closing, and Seller shall exert its best efforts to cause each such condition to be fulfilled:

8.1. DELIVERY OF DOCUMENTS. Seller shall have delivered to Buyer at or prior to the Closing all documents required by the terms of this Agreement to be delivered to Buyer.

8.2. OBLIGATIONS. All obligations required by the terms of this Agreement to be performed by Seller at or before the Closing shall have been properly performed in all material respects.

8.3. TITLE. Seller shall have cured any exceptions to title to which Buyer objected within the Review Period in Section 4.3 and to which Seller agreed to remove or resolve under Section 4.3, unless Seller's obligation to remove or resolve has been waived by Buyer.

8.4. CONDEMNATION. No portion of the Property shall have been taken or damaged by any public or quasi-public body, and Seller shall not have transferred any portion of the Property to any such body in lieu of condemnation.

ARTICLE 9.
CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS

All obligations of Seller to close on the Closing Date are subject to the fulfillment of each of the following conditions at or prior to the Closing, and Buyer shall exert its best efforts to cause each such condition to be so fulfilled:

9.1. DELIVERY OF DOCUMENTS. Buyer shall have delivered to Seller at or prior to Closing all documents required by the terms of this Agreement to be delivered to Seller.

9.2. OBLIGATIONS. All obligations required by the terms of this Agreement to be performed by Buyer at or before the Closing shall have been properly performed in all material respects.

9.3. TITLE. The Title Company shall be irrevocably committed to issue an owner's policy of title insurance for the full amount of the Purchase Price, effective as of the Closing Date, containing no exceptions other than the Permitted Exceptions and the other exceptions allowed for under Section 4.4 of this Agreement.

ARTICLE 10.
CLOSING

10.1. CLOSING/CLOSING DATE. The Closing shall take place within fifteen (15) days

following the removal of all the contingencies in Article 5 of this Agreement or such other date as may be mutually agreed upon by the Parties (“Closing Date”). On or before the Effective Date, the Parties shall set up an escrow account with the Escrow Agent. The Escrow Agent shall serve as closing agent for the transaction contemplated herein and Closing shall occur in the offices of the Escrow Agent in Seattle, Washington.

10.2. PRORATIONS. Real property taxes and assessments shall be prorated as of the Closing Date. Seller shall pay the cost of one-half (½) of the escrow fee charged by the Escrow Agent, any real estate excise or other transfer tax due, and its own attorneys’ fees. Buyer shall pay one-half (½) of the escrow fee charged by the Escrow Agent, the premium for the title insurance and any costs of the preliminary and binding title commitments, the recording fees for the deed and its own attorneys’ fees. Except as otherwise provided in this Section 10.2, all other expenses hereunder shall be paid by the Party incurring such expenses.

10.3. SELLER’S DELIVERY OF DOCUMENTS AT CLOSING. At the Closing, Seller will deliver to Buyer via escrow with the Escrow Agent the following properly executed documents:

10.3.1. A bargain and sale deed conveying the Property substantially in the form of **EXHIBIT B** attached hereto;

10.3.2. A bill of sale and assignment duly executed by the Seller in substantially the form of **EXHIBIT C**, attached hereto for the Personal Property, if any;

10.3.3. A seller’s certificate of non-foreign status substantially in the form of **EXHIBIT D**, attached hereto.

10.4. BUYER’S DELIVERY OF PURCHASE PRICE AT CLOSING. At the Closing, Buyer will deliver to Seller via escrow with the Escrow Agent cash or immediately available funds in the amount of the Purchase Price, less the Deposit made under Section 2.3. of this Agreement.

ARTICLE 11. MISCELLANEOUS PROVISIONS

11.1. NON-MERGER. Each statement, representation, warranty, indemnity, covenant, agreement and provision in this Agreement shall not merge in, but shall survive the Closing of the transaction contemplated by this Agreement unless a different time period is expressly provided for in this Agreement.

11.2. DEFAULT AND ATTORNEYS’ FEES.

11.2.1. DEFAULT BY BUYER. In the event Closing does not occur due to default by Buyer, Seller’s sole and exclusive remedy shall be to terminate this Agreement and retain the Deposit as liquidated damages. Buyer expressly agrees that the retention of the Deposit by Seller represents a reasonable estimation of the damages in the event of Buyer’s default, that actual damages may be difficult to ascertain and that this provision does not constitute a penalty. Buyer and Seller acknowledge and agree that these damages have been specifically negotiated and are to

compensate Seller for taking the Property off the market and for its costs and expenses associated with this Agreement.

11.2.2. DEFAULT BY SELLER. In the event Closing does not occur due to default of Seller, Buyer's sole and exclusive remedy shall be to terminate this Agreement and receive a refund of the Deposit.

11.2.3. ATTORNEY'S FEES. In any action to enforce this Agreement, each Party shall bear its own attorney's fees and costs.

11.3. TIME.

11.3.1. TIME IS OF THE ESSENCE. Time is of the essence in the performance of this Agreement.

11.3.2. COMPUTATION OF TIME. Any reference to "day" in this Agreement shall refer to a calendar day, which is every day of the year. Any reference to business day in this Agreement shall mean any calendar day that is not a "Legal Holiday." A Legal Holiday under this Agreement is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050. Any period of time in this Agreement shall mean Pacific Time and shall begin the calendar day or business day, as the case may be, after the event starting the period and shall expire at 5:00 p.m. of the last calendar day or business day, as the case may be, of the specified period of time, unless with regard to calendar days the last day is a Legal Holiday, in which case the specified period of time shall expire on the next day that is not a Legal Holiday.

11.4. NOTICES. Any and all notices or other communications required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier or two days after deposit in the United States mail if by first class, certified or registered mail, return receipt requested. All notices shall be addressed to the Parties at the addresses set forth below or at such other addresses as a Party may specify by notice to the other Party and given as provided herein:

If to Buyer: City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033
Attention: William Evans

If to Seller: King County
King County Facility Management Division
Real Estate Services Section
500 Fourth Avenue, Room 830
Seattle, WA 98104
Attn: Steve Rizika

With a copy to: King County Prosecuting Attorney's Office
Civil Division
King County Courthouse
516 3rd Avenue, Suite W400
Seattle, WA 98104
Attention: Sam Lee

11.5. ENTIRE AGREEMENT AND AMENDMENT. This writing (including the Exhibits attached hereto) constitutes the entire agreement of the Parties with respect to the subject matter hereof and may not be modified or amended except by a written agreement specifically referring to this Agreement and signed by all Parties.

11.6. SEVERABILITY. In the event any portion of this Agreement shall be found to be invalid by any court of competent jurisdiction, then such holding shall not impact or affect the remaining provisions of this Agreement unless that court of competent jurisdiction rules that the principal purpose and intent of this contract should and/or must be defeated, invalidated or voided.

11.7. WAIVER. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver and no such waiver shall be deemed a waiver of any prior or subsequent breach or default.

11.8. BINDING EFFECT. Subject to Section 11.14 below, this Agreement shall be binding upon and inure to the benefit of each Party, its successors and assigns.

11.9. LEGAL RELATIONSHIP. The Parties to this Agreement execute and implement this Agreement solely as Seller and Buyer. No partnership, joint venture or joint undertaking shall be construed from this Agreement.

11.10. CAPTIONS. The captions of any articles, paragraphs or sections contained herein are for purposes of convenience only and are not intended to define or limit the contents of said articles, paragraphs or sections.

11.11. COOPERATION. Prior to and after Closing the Parties shall cooperate, shall take such further action and shall execute and deliver further documents as may be reasonably requested by the other Party in order to carry out the provisions and purposes of this Agreement.

11.12. GOVERNING LAW AND VENUE. This Agreement and all amendments hereto shall be governed by and construed in accordance with the laws of the State of Washington applicable to contracts made and to be performed therein, without giving effect to its conflicts of law rules or choice of law provisions. In the event that either Party shall bring a lawsuit related to or arising out of this Agreement, the Superior Court of King County, Washington shall have exclusive jurisdiction and venue.

11.13. NO THIRD PARTY BENEFICIARIES. This Agreement is made only to and for the benefit of the Parties, and shall not create any rights in any other person or entity.

11.14. ASSIGNMENT. Buyer shall not assign this Agreement or any rights hereunder without Seller's prior written consent.

11.15. NEGOTIATION AND CONSTRUCTION. This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the Parties and shall not be construed as if it has been prepared by one of the Parties, but rather as if both Parties had jointly prepared it. The language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either Party. The Parties acknowledge and represent, as an express term of this Agreement, that they have had the opportunity to obtain and utilize legal review of the terms and conditions outlined in this Agreement. Each Party shall be and is separately responsible for payment of any legal services rendered on their behalf regarding legal review of this Agreement.

11.16. SELLER'S KNOWLEDGE. Any and all representations or warranties or other provisions in this Agreement that are conditioned on terms such as "to Seller's knowledge" or "about which Seller has knowledge" are made to and limited by the present, actual knowledge of Steve Rizika, who is an employee of King County, and is a Real Property Agent of the Real Estate Services Section of the Facilities Management Division of the Department of Executive Services. Steve Rizika has made no inquiries or investigations with respect to Seller's representations or warranties or other provisions prior to the making thereof and has no duty to undertake the same.

11.17. INDEMNIFICATION TITLE 51 WAIVER. The indemnification provisions in Sections 3.3.4 and 5.1.2 of this Agreement are specifically and expressly intended to constitute a waiver of the Buyer's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the Seller only, and only to the extent necessary to provide the Seller with a full and complete indemnity of claims made by the Buyer's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

11.18. COUNTERPARTS. To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each Party, or that the signature of all persons required to bind any Party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each Party hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter may be attached to another counterpart identical thereto except having attached to it additional signature pages.

11.19. EXHIBITS. The following exhibits described herein and attached hereto are fully incorporated into this Agreement by this reference:

EXHIBIT A	Legal Description
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EXHIBIT B	Bargain and Sale Deed
EXHIBIT C	Bill of Sale and Assignment
EXHIBIT D	Certificate of Non-Foreign Status

[SIGNATURES ON THE NEXT PAGE]

EXECUTED on the dates set forth below.

SELLER: KING COUNTY

BUYER: CITY OF KIRKLAN

By: _____

By: _____

Name: Anthony Wright

Name: Kurt Triplett

Title: Director, Facilities Management Division

Title: City Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Deputy Prosecuting Attorney

EXHIBIT A.

LEGAL DESCRIPTION

THE WEST 200 FEET OF THE NORTH 165 FEET OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON; LESS THE WEST 30 FEET PER RECORDING NUMBER 9703141293 AND LESS THE EAST 20 FEET OF THE WEST 50 FEET THEREOF PER RECORDING NUMBER 20190610001450.

EXHIBIT B.

BARGAIN AND SALE DEED

AFTER RECORDING RETURN TO:

CITY OF KIRKLAND
123 FIFTH AVE
KIRKLAND, WA 98033
ATTN: WILLIAM EVANS

BARGAIN AND SALE DEED

Grantor - - King County, Washington
Grantee - - The City of Kirkland
Legal - - - - provided by title
Tax Acct. - 202605-9104

The Grantor, KING COUNTY, a political subdivision of the State of Washington, for and in consideration of mutual benefits, pursuant to King County Ordinance No. _____, does hereby bargain, sell and convey unto the Grantee, the City of Kirkland, a municipal corporation of the State of Washington, the following real property situated in King County, Washington and described in EXHIBIT A, attached hereto and incorporated herein by this reference, subject to the permitted exceptions set forth in EXHIBIT A.

The property herein conveyed was purchased with King County Conservation Futures Tax Levy funds and is subject to open space use restrictions and restrictions on alienation as specified in RCW §84.34.200, et seq., and King County Code §26.12.005, et seq.

GRANTOR
KING COUNTY

GRANTEE
The City of Kirkland

BY: _____

BY: _____

TITLE: Director, Facilities Management Division

TITLE: City Manager

DATE: _____

DATE: _____

Approved as to Form:

By _____
Senior Deputy Prosecuting Attorney

NOTARY BLOCKS APPEAR ON NEXT PAGE

NOTARY BLOCK FOR KING COUNTY

STATE OF WASHINGTON)

) SS

COUNTY OF KING)

On this _____ day of _____, 2020 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared ANTHONY WRIGHT, to me known to be the Director of the Facilities Management Division of the King County Department of Executive Services, and who executed the foregoing instrument and acknowledged to me that HE was authorized to execute said instrument on behalf of KING COUNTY for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the State of Washington, residing

at _____

City and State

My appointment expires _____

NOTARY BLOCK FOR THE CITY OF KIRKLAND

STATE OF WASHINGTON)

) SS

COUNTY OF KING)

On this _____ day of _____, 2020, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____, who executed the foregoing instrument and acknowledged to me that SHE or HE was authorized to execute said instrument on behalf of the _____ for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the State of Washington, residing

at _____

City and State

My appointment expires _____

EXHIBIT A
TO BARGAIN AND SALE DEED

LEGAL DESCRIPTION

EXCEPTIONS TO TITLE

SUBJECT TO: [permitted exceptions will be determined in accordance with the process identified in Article 4 of the Agreement and inserted in the final deed].

EXHIBIT C.**BILL OF SALE AND ASSIGNMENT**

THIS BILL OF SALE is made as of this ____ day of _____, 2020, by KING COUNTY, a political subdivision of the State of Washington (“**Seller**”), in favor of The City of Kirkland, a Municipal Corporation of the State of Washington (“**Buyer**”).

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Seller does hereby absolutely and unconditionally give, grant, bargain, sell, transfer, set over, assign, convey, release, confirm and deliver to Buyer all of Seller’s right, title and interest in and to any and all equipment, furniture, furnishings, fixtures and other tangible personal property owned by Seller that is attached, appurtenant to or used in connection with the real property legally described on the attached Exhibit A.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the date first above written.

SELLER:

By: _____

Name: Anthony Wright

Title: Director, Facilities Management Division

EXHIBIT A
TO BILL OF SALE

LEGAL DESCRIPTION

EXHIBIT D.**Seller's Certification of Non-Foreign Status under
Foreign Investment in Real Property Tax Act (26 U.S.C. 1445)**

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by King County ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in Section 1.1445-2(b)(2)(iii);
3. Transferor's U.S. employer identification number is 91-6001327;
4. Transferor's office address is King County Facilities Management Division, Real Estate Services Section, Room 800 King County Administration Building, 500 Fourth Avenue, Seattle, WA 98104.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated this ____ day of _____, 20__.

King County, Transferor:

By: _____

Name: Anthony Wright

Title: Director, Facilities Management Division

FISCAL NOTE

CITY OF KIRKLAND

Source of Request							
Kathy Brown, Director of Public Works							
Description of Request							
Recognizing a grant funding award in order to authorize a purchase and sale agreement involving existing project funding from the Surface Water CIP's SDC1050000 Property Acquisition Opporutnity Fund. Grant funding of \$139,225 has been awarded through the King County Conservation Futures Trust (CFT) for the purchase of the property at 14256 100th Ave NE for conservation and water quality purposes.							
Legality/City Policy Basis							
Fiscal Impact							
Match funding will be provided with existing unencumbered project balances in the CIP's SDC1050000 Property Acquisition Opporutnity Fund, the current available balance is \$268,956. A use of \$223,775 in project funds will result in a remaining balance of \$45,181. The SDC1050000 Property Acquisition Opportunity fund receives \$50,000 in annual contributions through the surface water utility CIP.							
Recommended Funding Source(s)							
<i>Reserve</i>	Description	2020 Est End Balance	Prior Auth. 2019-20 Uses	Prior Auth. 2019-20 Additions	Amount This Request	Revised 2020 End Balance	2020 Target
<i>Revenue/Exp Savings</i>	Conservation Futures Trust Grant Award - \$139,225						
<i>Other Source</i>	SDC1050000 Property Acquisition Opporutnity Fund available project balance (\$223,775 for match, out of an available balance of \$268,956).						
Other Information							
Note: King County Conservation Futures Trust funding is contingent on a commitment to preserve the property for green space, passive recreational use, and non-intensive surface water improvmeents such as native plantings and restoration. The CFT grant agreement disallows any future installation of capital structures or assets on the site.							

Prepared By	Kyle Butler, Financial Planning Supervisor	Date	October 24, 2019
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RESOLUTION R-5399

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO EXECUTE A REAL PROPERTY PURCHASE AND SALE AGREEMENT FOR THE PROPERTY LOCATED AT 14256-100TH AVENUE NE.

1 WHEREAS, during the design stage of the of the 100th
2 Avenue NE corridor improvement project, staff discovered a parcel
3 of land owned by King County that would have some future
4 surface water management benefits to the City, as identified in
5 the Surface Water Master Plan; and
6

7 WHEREAS, in addition, the property offers open space
8 benefits and the opportunity to potentially install a walking trail;
9 and
10

11 WHEREAS, an appraisal of the Property was completed by
12 Valbridge Property Advisors on June 13, 2019, which arrived at a
13 value of \$360,000 and King County is prepared to sell the Property
14 to the City for that price; and
15

16 WHEREAS, City staff applied for a grant from the King
17 Conservation District (KCD) to pay the costs of the acquisition,
18 which is \$139,225, and that grant was awarded in June 2019.
19

20 NOW, THEREFORE, be it resolved by the City Council of the
21 City of Kirkland as follows:
22

23 Section 1. The City Manager is hereby authorized and
24 directed to execute on behalf of the City of Kirkland a Real
25 Property Purchase and Sale Agreement for the Property
26 substantially similar to that attached to this Resolution as Exhibit
27 "A."
28
29
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41

42 Passed by majority vote of the Kirkland City Council in open
43 meeting this __ day of _____, 2019.

44
45 Signed in authentication thereof this __ day of _____,
46 2019.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk



CITY OF KIRKLAND

123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kathy Brown, Public Works Director
Ray Steiger, P.E., Public Works Superintendent
Nathen Hower, Streets and Grounds Manager
Dawson Van Cise, Intern

Date: October 24, 2019

Subject: Snow and Ice Response Plan – Winter 2019/2020

RECOMMENDATION:

City Council receives an update of the City's Snow and Ice Response Plan. Pending Council's direction, staff will finalize the plan and return with funding options (if applicable) as a part of the 2021/2022 budget process.

BACKGROUND AND DISCUSSION:

During City Council's April 2, 2019, study session, City staff presented a detailed report and discussion regarding the February 2019 "Snowmageddon" event -- an event that had regionwide impacts. Not since the mid 1980's has the region experienced such snow accumulation and cold temperatures in combination (Figure 1).

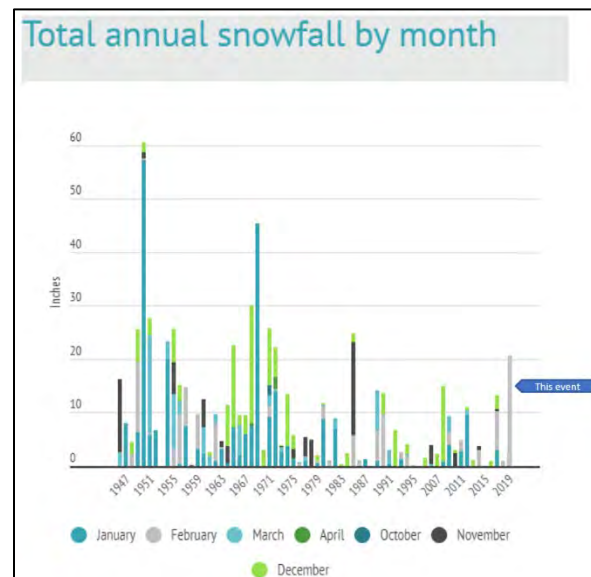


Figure 1 – Historical snowfall (Sea-Tac Airport)

The City spent nearly \$380,000 on the event. Roughly \$165,000 was spent by Public Works, far surpassing the department's annual snow and ice budget of about \$50,000 (Figure 2).

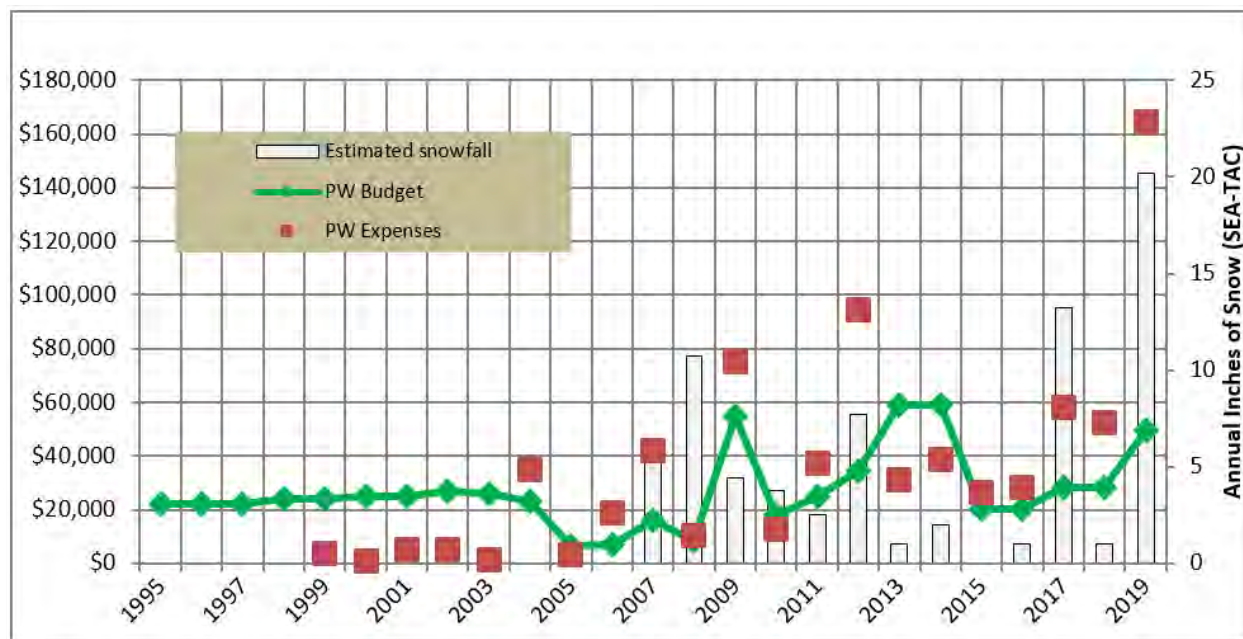


Figure 2 – Public Works Expenditures vs snowfall

At the study session, staff presented an overall timeframe of the event, lessons learned, and proposed actions as a follow up. Over the subsequent months, staff has been working on many of the action items (Attachment A) and has prepared a draft (2019/2020) Plan for review (Attachment B).

A key mission of the City of Kirkland is to provide snow and ice response services to mitigate hazardous driving conditions and to keep public facilities accessible when freezing weather conditions occur. The City of Kirkland Snow and Ice Response Plan (the Plan) was developed to maximize service and efficiency with the resources available and to communicate these efforts to the Community. Continued refinement based on changing priorities, equipment, events, and experience allow the Plan to reflect best practices and a common understanding of the roles and responsibilities.

An example of a significant change in practice was implemented in the 2015 Plan when, based on experience, response for snow & ice events was changed from a “reactive” initiation using field observations from the Kirkland Police Department and the City’s standby personnel, to a more proactive approach. This proactive approach involves gathering early information such as regional weather reports, active weather monitoring sites situated in Kirkland (Finn Hill and South Rose Hill), and close coordination with the City’s Emergency Management Office. The decision to initiate response is then made by the Public Works Director in consultation with maintenance and other staff.

Snow and ice response work remains challenging in the Puget Sound region for many reasons:

- **Weather forecasting is difficult in our area** - The significant variance in elevation from one neighborhood to another, proximity to Lake Washington, the Puget Sound convergence zone, tree canopies, and other factors make pinpoint weather conditions extraordinarily difficult to predict. These factors can lead to snow in some parts of the City, while other parts only experience rain. It is critical that the Plan incorporate the use of up-to-date, detailed weather data and forecasting. Even with the best possible forecasting, launching snow and ice control efforts is often a judgment call based on the best available information.
- **Travel time for staff** - Like many municipalities in the greater Seattle area, staff that conducts snow/ice response work often live some distance from their work. Affordability often dictates a need to live outside of Kirkland, and travel from home to work often involves great distances. Kirkland maintenance staff range in living locations from Mount Vernon to Maple Valley, and from Seattle to Carnation. Even during normal work hours (6:30 am to 3:00 pm), commute times can reach 45 to 60 minutes. When snow/ice events occur during non-work hours, merely assembling a crew can be delayed by a significant amount of time.
- **Infrequency of events makes training difficult** - Compared to other parts of the Country, snowfall is relatively rare in Western Washington. Recruitment, training, and predominant work efforts are typically focused on non-snow events. The most often encountered operations for staff include: sweeping, excavation, mowing, pipe laying, paving and the like. Training for these operations can be conducted typically throughout the year, whereas snow/ice tasks require on the job training that is difficult to replicate.
- **Equipment and supplies** – Similar to training, due to the rarity of (lingering) snow in Western Washington, many local governments often do not have fully dedicated resources for snow and ice removal. Available dump trucks are retrofitted with snow plows and sanders and often private contractors are hired to assist with plow operations. Kirkland has been proactive in acquiring vehicles and specialized equipment to address snow events. The City has an historically “right-sized” assembly of vehicles and specialized equipment, however events such as those experienced last February expose the impacts of equipment breakdowns, limited equipment, and regional competition for supplies such as salt, sand, plow blades and chains; minimal stockpile opportunities may inhibit addressing all locations throughout the City.
- **Infrequency of events also results in less experienced drivers on City streets** - In spite of the best efforts to remove snow and ice, travelers of Kirkland roadways often find themselves unable to deal with snowy and/or icy roadway conditions and not all roads are addressed. Abandoned vehicles (often including buses or semi-tractor/trailer units) and traffic accidents can create impassable roadways or create even more hazardous conditions. Close coordination with the Kirkland Police and Fire departments, as well as other jurisdictions, is key to successful response efforts.

The National Weather Service (NWS) produces long-range climate predictions to provide an indication of upcoming potential weather patterns. NWS predictions for the November 2019 – March 2020 winter season conclude that the Pacific Northwest area will be subject to strong high pressure over the region and will likely lead to drier conditions with above-normal temperatures (Figure 3).



Figure 3- NWS Winter Climate Prediction

Although the climate predictions do not indicate a likelihood of significant snowfall, the City is taking steps to be prepared in the event of snowy and/or icy conditions presented themselves.

In preparation for the 2019-2020 inclement weather season, City staff has and will be attending a number of internal planning and strategy meetings in order to review past practices and update standard operating procedures. The (Winter 2019/2020) Plan contains changes that were instituted as a result of changing resources, and Community and City Council feedback from the snow/ice events of February 2019's "Snowmageddon".

Following are highlights of changes to the (2019-2020) Plan:

1. **Updates to resource lists:** The Plan has been updated to reflect new equipment, crew shift lists, and dispatching practices.
2. **Priority route updates:** The Public Works Department has established priority routes that are plowed and deiced using existing resources. For 2019-2020, parts of State St. S, 6th Ave, 120th Ave. NE, were added. NE 52nd St. was switched from Priority 2 to a Priority 2 - Potential Road Closure. NE 97th St. was added as a Priority 3 - Potential Road Closure.
3. **Potential Change - Sidewalk clearing ¼ mile around schools:** Currently, the Kirkland Municipal Code 19.20.020, holds that sidewalk maintenance is the adjacent property owner's responsibility; this is particularly important during freezing and or snow events. This is the standard practice throughout Washington. Except for around public facilities, City staff does not currently clear sidewalks. The February 2019 event

brought to light that many residents and businesses are ill-equipped to shovel their sidewalks either because they lacked the tools, were unaware of their obligation, or were not able to perform the work. Council asked staff to look at options for two critical areas for sidewalk clearing: around schools and along transit routes. Staff estimates that it would require an additional \$30,000 in new equipment and approximately \$150,000 in labor costs for City crews to have removed snow along sidewalks within ¼ mile of Kirkland schools (Figure 4) during the February storm event; smaller, single snowfall events would be less, however the duration and amount experienced usually does not require clearing. Staff will await Council direction on this potential change.

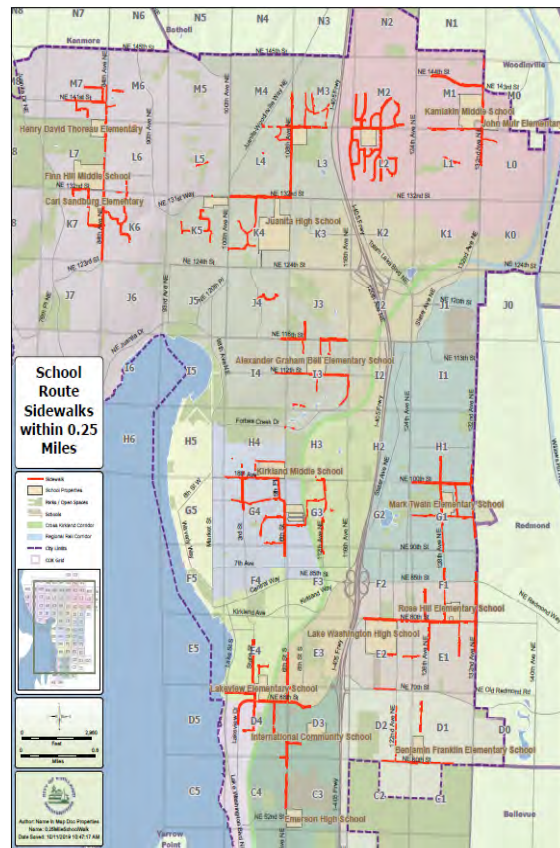


Figure 4. School Route Sidewalks

4. **Potential Change - Sidewalk clearing at bus facilities:** Shoveling and de-icing of sidewalks at King County Metro bus stops without shelters are equivalent to sidewalks and snow removal is the responsibility of adjacent property owners. Snow removal for bus stops with shelters is the responsibility of King County Metro Transit Power and Facilities Section. With an estimated 575 non-sheltered bus stops in the City, staff estimates it would require an additional \$20,000 in labor to remove snow at these locations. Staff will await Council direction on this potential change.
5. **Communications during snow events:** With the advent of QAlert in 2019 and a more robust communications team at the City, a full communications plan is still being developed. Particular attention is being paid to situations when the Emergency

Operations Center is active and when it is not active. At this juncture Public Works and other staff will be communicating through the Public Information Officer (PIO) on an hourly basis. The PIO will be taking the lead on putting out information that is provided including status of response, road closures, and other Community activities.

- 6. Garbage pickup and locations:** The City of Kirkland and Waste Management (WM) have coordinated in order to implement a plan that will reduce impact of prolonged inclement weather events (Attachment D). The plan outlines measures that WM will take during inclement weather including surveying road conditions for possible impacts, notifying City staff of any service impacts, notify customers not receiving service of the recovery plan via automated out-dialer calls, and when services are not able to be received, setting up drop off locations at Juanita Beach Park and Heritage Hall.

Staff will be providing a summary of the Plan and be available for questions and feedback at the November 6th City Council meeting.

Attachment A: Action item status tracking

Attachment B: Draft 2019-2020 Snow and Ice Response Plan

Attachment C: Draft 2019-2020 Snow and Ice Plan Appendices

Attachment D: Waste Management mitigation plan

Action item status list

	Addressed	In progress	Future	Outreach	Not Applicable
Community Outreach (preemptive)					
Driveway and sidewalk shoveling coordination w/ plowing				X	
Garbage can placement				X	
Uncover your meter box if you know where it is				X	
Put your vehicles in your driveway if possible, if we're able to plow your street then this we'll make it easier to do so				X	
Help us avoid flooding by uncovering storm drains in front of your house				X	
Please remember that property owners are responsible for removing ice and snow from the sidewalks that are adjacent to their property (per KMC 19.20.020).				X	
Public trees into private property (claim process, responsibilities)				X	
Private trees onto public property (what we do, what they need to do)				X	
"amnesty" for yard waste location (if available)				X	
Need clear message whether we're taking requests for plowing outside of the priority routes or not				X	
EOC					
Clarify that whomever receives a road closure needs to make sure notification is sent to EOC and Road Closure distribution. If a tree or branch is on a line, need to call in to PSE or Comcast/Frontier. When road is reopened, notification also needs to be sent. Sign Shop needs to be notified to pick up signs. Maybe Sign Shop should be on EOC or Road Closure distribution?	X				
No comprehensive list of emergency contacts in each dept. (Fire BC, Police, Streets/Grounds leads)		X			
Little or no communication with Fleet regarding EOC decisions, continuation of event					X
Communication between EOC / PW / PMO crew as it pertains to field response	X				

Action item status list

	Addressed	In progress	Future	Outreach	Not Applicable
Recommend calling in other EOC staff besides PW/PMO who were handling all they could in the field and with logistics		X			
Other staff would have liked to help more and have training in EOC		X			
What is the EOC's role vs operations	X				
Equipment					
Need operational radios/radios in vehicles		X			
Additional lights on plows (dark conditions)		X			
Additional plows on "smaller" pickups during day			X		
More adequate springs on the small plows		X			
Temp or permanent c-curb candles in field					X
Extra blades available for worn out blades		X			
Adjustable "V" plows on smaller trucks			X		
Northern sand storage location (Office Max?)			X		
Should we look at getting a set of cab doors and plow straight or adjustable V, snow blower, and or sander for the tool cat. It could be used locally in and around the shop or in the smaller neighborhoods:		X			
Better quality chains (especially 2-wheel drive; many came off)		X			
External					
Metro articulated busses clogged the system					X
Roadway parking control				X	
Best way and number to notify PSE and or Verizon New PSE Emergency Number - 425-822-4613	X				
Add WCIA's phone number to our M and O contact list – 206-575-6046	X				
Coordination with PD & Fire on vehicle parking location so that we can better serve their sites		X			
Coordinate with LWSD on outreach and walk route prep				X	
Operations					
Road closed tracking/publishing	X				
Better schedule sharing (i.e. with Fleet/parks)	X				

Action item status list

	Addressed	In progress	Future	Outreach	Not Applicable
12 hours or 8 hours discussion (still mixed perspectives)	X				
Fleet (desires to) work 12 hour or transition period		X			
Briefing for all at start of shift (Office, Fleet, etc.)		X			
Lunch work throughs (1/2 hour lunch time = 1 hr OT)		X			
1-2 floaters on duty			X		
Alignment w 12 hr. EOC shift duration (06:00 – 18:00)			X		
On Saturday and Sunday day shifts, it would be nice if there was someone to answer 3900 besides the shift manager			X		
On weekday swing shift (after 3:30) it would be nice if there was someone to answer 3900 besides the shift manager.			X		
Fleet does not have enough mechanics to run 24 hours and do 8 hours shifts like the rest of public works.			X		
Fleet should have a lead who is in charge.			X		
Lack of tie in with Fleet crew during overlap/shift change		X			
No PW crew roster emailed/handed out - Fleet had no idea who was running what vehicle/equipment		X			
No radio assignments - no idea who had what radio - only way to reach was to broadcast name of operator/staff		X			
Little or no contact with Fleet when lunch/meals/snacks arrived	X				
Crew were deployed back and forth across City	X				
At times when crew arrived a location, it had already been cleared	X				
Recommend defining "sphere of responsibility" between PW/PMO		X			
Communication not always passed along (e.g., PMO briefed PW on staff on shift, but would then get call from someone else asking for same information)		X			
Need better address information from callers/citizens/crews				X	
There are only 3 available 3900 lines and 2 if forwarded; need additional lines available during high volume.			X		
Policies					

Action item status list

	Addressed	In progress	Future	Outreach	Not Applicable
what does "plowed" mean?			X		
How to address/prioritize non-priority routes		X			
Resource allocation between multiple priorities (trees vs plowing)		X			
When to go from P routes to Non-P routes ("bare pavement")			X		
Private vs. Public responsibilities: sidewalks, trees, driveways		X			
What investment in deferred maintenance: buttons, potholes					X
Communications: best practices/Council role		X			
Route Modifications					
Align deice and snow route priorities		X			
124th west of 100th Ave extend P1 route	X				
Open 100th Street bridge and the 110th/100th Ave bollards			X		
108th Ave NE from NE 132nd Street to Juanita Woodinville to P1 on snow removal (fire request)	X				
% grade for "likely closed" on maps	X				
Community special needs mapped			X		
All P3 to P2; reflects what we do	X				
Put all North to South roads between NE 80th St to NE 90th St on as Priority 2	X				
Need to discuss adding more roadways in Kingsgate and Finn Hill as Priority 3 routes	X				
Review/update priority routes (i.e. customer pointed out that Finn Hill Fire Station is still on map).	X				
Requests were received to be placed on priority route list		X			
Training					
On where sand should/not be placed		X			
Training on sander setup and dispersion basics		X			
How to plow across driveways and intersections		X			
Plow sequencing (middle to outer lanes)	X				
Get one quadrant down during training, then others	X				
Plowing adjacent to sidewalks				X	
How to operate the equipment	X				
Pre-inspection what to dos	X				
Chaining up	X				

Action item status list

	Addressed	In progress	Future	Outreach	Not Applicable
Communication from field on tasks that were done but not assigned. (e.g. quick stop to take care for a tree in the ROW and not calling it in. Meanwhile the tree is called in by the Public, PD, or Fire but it's already been taken care of.....and gets dispatched...crews are sent out...but tree is already addressed). Happened more than once.		X			
Need to plan/implement 'Snow and Ice Rodeo' - crews and techs work together learning proper operation and maintenance of equipment BEFORE events happen		X			
Extend PW plow training to Parks staff			X		

City of Kirkland Public Works Department

Snow and Ice Response Plan 2019-2020



For Immediate Emergency Assistance Call 9-1-1

Kirkland 24/7 Emergency Update Hotline: (425) 587-3767

For Public Works 24/7 Emergency Line: (425) 587-3900

Puget Sound Energy 24/7 Emergency Line: (888) 225-5773

For service requests, please use OurKirkland: <https://kirklandwa.qscend.com/ourkirkland/>

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APPENDICES

- Appendix A: Snow Plowing Routes
- Appendix B: Anti-Icing Routes
- Appendix C: Wind Storm Sweeping Routes
- Appendix D: Kirkland Snow and Ice Response Equipment
- Appendix E: King County Deicing Best Management Practices (BMPs)
- Appendix F: Washington State Dept. of Ecology Deicing BMPs
- Appendix G: Deicing Routes Near Sensitive Areas
- Appendix H: CaCl w/ Boost Application Guideline
- Appendix I: Storm Report Template
- Appendix J: FEMA Resource Tracking Form

ACRONYMS

BMP	Best Management Practice
CDL	Commercial Driver's License
CKC	Cross Kirkland Corridor
CMO	City Manager's Office
EOC	Emergency Operations Center
FEMA	Federal Emergency Management Agency
HVAC	Heating, Ventilation, and Cooling
NOAA	National Oceanic and Atmospheric Administration
NORCOM	North East King County Regional Public Safety Communication Agency
NPDES	National Pollutant Discharge Elimination System
NWS	National Weather Service
OEM	Office of Emergency Management
PWMO	Public Works Maintenance and Operations
SOP	Standard Operating Procedure
SWMMWW	Stormwater Management Manual for Western Washington
WSDE	Washington State Department of Ecology
WSDOT	Washington State Department of Transportation



1. Introduction

1.1 Purpose and Goals

The purpose of this Snow and Ice Response Plan is to provide effective, clear, consistent, and environmentally responsible guidelines for the City of Kirkland to provide the best possible service for the residents, businesses, and visitors to Kirkland during winter weather using available resources.

During the winter season, Kirkland may experience hazardous weather including snow and ice accumulation. Storm patterns in the Pacific Northwest are irregular, and Kirkland's diverse landscape complicates the impacts of winter weather. Kirkland could experience low, moderate, or severe impacts from weather conditions during the winter of any particular year.

A major impact of winter weather is the effect on the City's road-transportation network; accumulations of snow and ice can reduce surface friction and increase risks to public safety. During especially heavy snowfall, accumulations of snow can collapse power lines, tree canopy, and the like, posing additional safety and road-efficiency risks.

The goal of the City's Public Works Department, led by the Streets Division, is to provide passable routes for emergency vehicles, school buses, public transportation, commercial vehicles, travelers, and commuters during conditions of snow, ice, and/or severe frost on the City's roads and streets.

1.2 Priorities and Service Expectations

The City's Public Works Department is responsible for snow and ice control activities including snow removal, anti/deicing, traction improvement, and debris removal within the public right-of-way.

While Public Works cannot commit to reaching bare pavement, it will endeavor to provide passable roadways. This includes approximately 250 center line miles of roadway, pedestrian overpass bridges, public parking lots, and public parking lot stairs. Parks and Community Services oversees snow removal around City facilities and within public parks.



Although Public Works will scale snow and ice response operations to the severity of the event, the inventory of right-of-way and travelled roadways in Kirkland exceed the available personnel, equipment, and resources needed to address all potential winter weather impacts simultaneously. Therefore, City

departments in consultation with transit providers has identified and prioritized service for roadways with consideration to access for emergency services, roadway classifications, and topography (Appendix A). Public Works attends to priority routes first, and these priorities remain in effect unless there is a requirement to redirect resources; if snowfall is continuous, roadways along higher priority routes may require



repeated snow and ice treatment before crews can work to clear others. This approach aids emergency services, as well as transit, school buses, and commuter traffic. In General routes are as follows:

- Priority 1 routes include arterial access to and around Evergreen Hospital Medical Center, the Kirkland Justice Center, and Kirkland Fire Stations along those routes.
- Priority 2 routes include public transit access, access to and from I-405, remaining arterials, and key service areas.
- Priority 3 routes include collectors serving key areas or neighborhoods.
- Priority 4 roadways have known needs typically shaded and east/west facing and local roads.
- The City may implement selected road closures to prevent collisions on roadways with substantial risk.

- Pre-treatment (anti-ice) routes cover steep and historically shaded areas/damp areas, bridges, and overpasses.

Sidewalks and stairs around Public Buildings are maintained by Parks and Community Services. Private Property owners are similarly responsible for shoveling and de-icing of sidewalks and steps adjacent to their property per Kirkland Municipal Code 19.20.020. This is especially important during winter events since many need to rely on transit or walking for mobility during these events.



King County Metro bus stops without shelters are equivalent to sidewalks, and snow removal is the responsibility of adjacent property owners. Snow removal for bus stops with shelters is the responsibility of King County Metro Transit Power and Facilities Section.

Since City resources cannot reach all locations or address every situation, community assistance along with personal responsibility are necessary to be safe during winter events. Measures that the Public is asked to do include:

- If possible, stay home throughout the storm until driving, walking, and biking routes are passable and safe for travel.
- Park vehicles in your driveway to give crews access to the street. Owners may have to dig out their vehicles if they are parked on snow routes. If a vehicle blocks snow and ice response activities, Police may utilize towing services to clear roads of these vehicles.
- Remain 50 feet away from all snow response equipment. Applications of anti/deicing materials can disperse at wide rates and it is best for the public to not have the materials coat their windshields for visibility. If anti/deicing material does get onto private vehicles, the public should rinse it from the vehicle as soon as possible to reduce corrosion and maintain clear window views.
- Uncover storm drains in front of your house to avoid flooding and uncover gas meters to avoid gas leaks. Crews try to keep from plowing snow onto storm drains and sidewalks, however this commonly happens during snow removal operations.
- Place requests for service 24/7 via phone or the OurKirkland web-portal, or in person Mon-Fri 6:30 A.M. to 3:30 P.M. at the Public Works Maintenance Center, 915 8th Street, Kirkland, WA. Requests outside of the pre-established priority routes may not receive high priority due to resource limitations.
- Use the OurKirkland web-portal to request updates on Waste Management (WM) service delays, using the topic 'I Want to Receive Waste Management Alerts'. Residents can also access WM service alerts at <http://wmnorthwest.com/kirkland>.

2. Planning and Preparedness

2.1 Proactive Response Measures

The City coordinates winter response proactively to the greatest extent possible. Proactive response requires constant vigilance, which the City maintains through several weather monitoring services. Public Works staff monitor conditions and follow weather reports using National Weather Service (NWS) alerts, as well as a forecasting tool developed by the University of Washington called SnowWatch. SnowWatch helps predict how a storm will most likely affect different areas of Kirkland which may impact road-clearing operations. Public Works Maintenance and Operations staff also have access to a portable weather alert radio.

If severe weather is forecasted, the City's Office of Emergency Management (OEM) may schedule a pre-incident meeting to initiate coordinated planning among City departments. Depending on the situation, the Emergency Manager or City Manager may proactively activate the Emergency Operations Center (EOC). (see Section 4.2.4).

The City has two remote weather stations that alert key staff when temperatures drop below 34 degrees via a subscription to Weathernet forecast services. One station located on Big Finn Hill next to Kirkland Fire Station #25 on Juanita Dr. NE is connected via fiber cable to the City technology system. A second station at Kirkland Fire Station #27 near Evergreen Hospital Medical Center is connected via cellular modem.

When temperatures drop below 34 degrees and conditions permit, the City uses anti-ice equipment and chemicals treating selected streets, bridges, and pedestrian overpasses (Appendix B) before a winter weather event to prevent ice from bonding to surfaces (see Section 6.1).

2.2 Preparedness Schedule

To address the irregularity of winter weather storms, it is important that snow and ice control procedures maintain flexibility. However, there are procedures before and after winter weather response which the City performs on an annual basis to prepare for inclement conditions. Generally, annual preparation is as follows:

September

- Public Works staff begins preparing for the snow season by getting snow equipment ready and stockpiling supplies.
- Chemical anti/de-icing materials are purchased, and spray trucks are purged of chemicals used for vegetation control during summer months.
- Staff review the Snow and Ice Response Plan for needed changes.
- Staff begins the priority route modification process based on changes in the community and in collaboration with Police, Fire, adjacent Cities, the Universities, King County Metro, Lake Washington Schools and Evergreen Hospital Medical Center.

October

- Staff more closely monitor weather and temperatures.
- Anti-ice treatment may commence as colder conditions warrant.
- Staff incorporates needed changes to the Snow and Ice Response Plan and snow and ice control priority routes identified during the review process.
- Staff shift schedules are drafted.
- Fleet Division prepares winter equipment with cleaning, tune up, and repairs.
- Members of the OEM staff, alongside staff from the King County Office of Emergency Management and Washington State Department of Transportation, attend annual winter weather meetings hosted by the National Weather Service (NWS). The OEM shares information from these meetings with the City and Public Works administration.

November

- Staff are trained, on snow if available, on the City's Snow and Ice Response Plan and Standard Operating Procedures (SOP) including plowing and spreader techniques, communications, and operation strategies. All staff are annually trained on procedures and equipment.
- Fleet Division coordinates preparation of emergency vehicles (Fire and Police) at individual stations.

Nov – Mar

- Most inclement weather in the Puget Sound region occurs during this timeframe.
- Crews perform emergency response activities such as anti-icing, plowing, sweeping, cleaning of enclosed drainage systems, and responses to wind and other events.

April

- Typically, April is a transition month, winding down from winter weather response mode.
- Equipment is returned to non-winter month status. For example, anti-icing trucks are returned to vegetation control preparation.
- Plows and sanders are cleaned, have maintenance performed on them, and stored.

3. Equipment and Material Inventory

3.1 Equipment

Crews use the same equipment for paving streets and maintaining utilities as for winter weather response, which helps to balance the City's investments in equipment. City owned equipment that is available for snow and ice control are identified in Appendix D. It is City policy that for each new large piece of equipment that is replaced or newly purchased for Parks or Public Works, it is to be evaluated for snow removal duties, and if viable, funding for snow removal/treatment accessories (plows, sanders, lighting) is included in the purchase.

During winter snow/ice events staff allocates vehicles and equipment in a manner which provides the best use and application for the particular event. Typically:

- 10 (cubic) yard and five-yard dump trucks and one-ton pickups equipped with snowplows/sanders are assigned in a prioritized manner throughout the community.
- Two trucks mounted with deicing equipment are assigned to areas on a priority basis.
- The articulated loader remains in the Maintenance Center yard for use in stockpiling, loading sand, and performing snow removal in the Maintenance Center yard and parking lot areas.
- The grader, if used, will focus primarily on Juanita Drive and may assist the Downtown Transit Center bus access for King County Metro.
- Extra available equipment may be used to assist plowing and respond to intersection and collision-related requests.
- Backhoes may be staged at City Hall and Justice Center parking lots if large piles of snow need to be managed.
- One 10-yard dump truck will be available to haul sand materials to the Maintenance Center to replenish inventoried materials.
- Small plows mounted on trucks, backhoe/loaders along, and snow blowers are available to assist Parks and Community Services in maintaining designated public facilities.

3.2 Anti/Deicers and Abrasives

The Public Works Department has access to various chemicals and abrasives for anti/deicing activity during storm events. Some are staged at the Maintenance Center, and access to additional materials from external sources and/or vendors is obtained on a case-by-case basis.

There are two 6,500-gallon storage tanks for Calcium Chloride with Boost (CaClB), used as an anti-icing material, installed at the Maintenance Center which crews can apply using spray equipped vehicles. 5-gallon containers of CaCLB are located at each Fire Station for onsite use.

Crews can use the salt brine (salt/water mix) available at the Maintenance Center to “pre-wet” sand by one 10-yard plow/sander fitted with pre-wetting equipment. Pre-wetting equipment applies the salt brine to the sand automatically as it is distributed. Pre-wetted sand will better adhere to frozen roadway surfaces as the water freezes to the roadway. A limited supply of bagged salt is stored indoors on pallets, if needed, which can be added to sand or mixed with water to create additional brine mix for pre-wetting sand.

Public Works also has access to a limited amount of sand/salt mix from the Washington State Department of Transportation (WSDOT) yard facility located at 10833 Northup Way, Bellevue, WA 98004. This stockpile is available via a mutual aid and support basis limited to \$5,000 of material annually.

3.3 Environmental Considerations

While snow and ice control activities that apply chemical or abrasive material onto roadways can have adverse environmental impacts if used improperly, vehicle collisions could have greater impacts if roads are left untended. Not only could vehicle collisions release motor oil,

coolants, and other vehicle fluids into the surrounding environment, injuries and damage to property as a result of collisions could also occur. As such, the City deems the use of chemical anti/deicers and abrasives necessary to protect public safety as well as to mitigate greater environmental damage from vehicle collisions.

To minimize the environmental impact of snow and ice control activities, the Public Works Department follows best management practices. Appendix E outlines practices from the King County Stormwater Pollution Prevention Manual (SPPM), adopted by the City. Additionally, Appendix F outlines practices from the Washington State Department of Ecology (WSDE) Stormwater Management Manual for Western Washington (SWMMWW), in compliance with requirements for the National Pollutant Discharge Elimination municipal stormwater permit.

The Pacific Northwest Snowfighters (PNS) has published a Qualified Products List, that includes anti/deicing materials which are effective and environmentally responsible. The Public Works Department utilizes CaCl₂, since this liquid deicer does not clog streams and sensitive areas as solid deicers and abrasives tend to do. Liquid deicers are also more effective, meaning crews can apply less to the roadway. Roadways listed for potential anti/deicing treatment near environmentally sensitive areas are identified in Appendix G.

4. Staffing

4.1 Administration

At the Kirkland Maintenance Center, 915 8th Street, Kirkland, WA, staff conduct the administration and coordination of crews during snow and ice conditions. From this location, Public Works crews can perform winter weather response 24/7.

The Public Works Director and/or Superintendent initiates snow and ice control procedures, determining when crews and equipment are to be activated in order to stay ahead of storm events. Crews may also be activated by the Public Works Standby and Manager in charge during non-work hours. Shifts remain in place until Public Works Director terminates shifting.

The Public Works Superintendent, Operations Managers and Supervisors, or Standby personnel may be designated as the 'supervisor on-duty', supervising the snow event. The appointed supervisor on-duty will deal directly with incoming service requests at the Maintenance Center, with consideration given to established priorities and limited resources. Briefings occur at a minimum at the beginning and end of shifts to allow staff the opportunity to coordinate with each other (see Section 4.3). In addition, the supervisor may be in contact with available Public Information staff or senior City management on a schedule determined by the event.



In a declared City emergency during which the EOC is activated, the Maintenance Center will continue to function as the focal point for direct coordination of crew activities, however, priorities for snow and ice control efforts or other emergency conditions by all crews may be directed by the EOC from City Hall.

Recording of all winter storm response activities and follow-up cleaning throughout a major winter storm is important for future planning and budgeting. With the implementation of Lucity as the City's Maintenance Management System in 2018, work orders are now tracked and coded for ease of reporting. Labor, equipment, and materials are tracked and documented for near real-time reporting. Mapping of work and progress are all enhanced by the tools available in Lucity. In the event of Disaster declaration associated with a winter storm, detailed tracking forms (Appendix J) will aid staff if applying for FEMA (Federal Emergency Management Agency) storm response and restoration funding programs.

4.2 Departmental Roles and Responsibilities

In addition to response efforts from Public Works Staff, effective management and implementation of snow and ice control efforts is accomplished through a coordinated effort by various other City Divisions and Departments and their respective managers, supervisors, lead persons and crews. Generally, Divisions and Departments with distinctive areas of responsibility for snow and ice control are Equipment Rental, Facilities Services, Parks and Community Services, the Office of Emergency Management, and Public Information in the City Manager's Office. Division and Department staff regularly share shift schedules and rosters to ensure coordination.

4.2.1 Equipment Rental (Fleet)

Fleet mechanics, shops, equipment, and parts are located in two facilities: two mechanics are assigned to Police at the Kirkland Justice Center, and three mechanics are at Kirkland Maintenance Center. On duty mechanics will perform equipment maintenance and repairs during shifts and assess equipment during shift changes to prevent equipment failures. Fleet is responsible for the setup, maintenance, and repair of vehicles and equipment during winter weather events. In addition, Fleet oversees the delivery of fuel and emergency generator located at the Maintenance Center during power outages.

In the initial stages of preparation for a winter storm, Fleet and the Streets Division staff jointly prepare equipment. Additional Public Works and Parks Department crews may be used assist preparing vehicles and equipment for snow and ice tasks if the event dictates. Preparation may include assisting with mounting the plows and sanding equipment and chaining vehicles.

Fleet maintains a complete set of cable chains and back-up chains for all Police vehicles, and install the chains during an event. The Fire Department maintains an inventory of chains for all apparatus at each station which includes cable chains and 'lug' chains, which are used if snow reaches six inches. All firefighters receive training on how to install the chains, however Fleet personnel may assist if conditions warrant.

4.2.2 Facilities Services

Within the City Manager's Office (CMO), Facilities Services is responsible for exterior structural City building maintenance including power, plumbing/drainage systems, HVAC systems, furniture systems, elevators, windows, flooring, roof systems and indoor structural system needs. City buildings are essential during winter events, and their continued operation is of vital importance.

4.2.3 Parks and Community Services

The Parks Maintenance Division has approximately 30 full time crew, two administrative employees, three lead persons, two supervisors, and one division manager situated at the Park Maintenance Building, 1129 8th Street, to the north of the Maintenance Center. The Division will be relocating to a new Maintenance facility in late 2019 located in the Totem Lake area at 12006 120th Place NE.

The Parks and Community Services Department is responsible for snow and ice control activities around the exterior of City buildings and facilities, including driveways, parking lots, and pedestrian access paths.

City buildings which Parks and Community Services are responsible for are as follows:

Station 21	9816 Forbes Creek Dr.
Station 22	6602 108th Avenue NE
Station 24	8411 NE 141st Street
Station 25	12033 76th Place NE
Station 26	9930 124th Avenue NE
Station 27	11210 NE 132nd Street
City Hall	123 5th Avenue
Kirkland Justice Center	11740 NE 118th Street
North Kirkland Community Center	12421 103rd Avenue NE
Peter Kirk Community Center	352 Kirkland Avenue
Maintenance Center	915 8th Street
Annex Building	310 1st Street
Heritage Hall	203 Market Street
Parks Maintenance Facility (late 2019)	12006 120th Place NE

Parks operates pick-up truck mounted plows and backhoe/loaders along with snow blowers to maintain designated public facilities. Parks crews may not be able to immediately reach every facility due to traffic or street blockages, however will endeavor to reach facilities as resources are available.



4.2.4 Office of Emergency Management (OEM)

The OEM provides additional logistic support prior to and during snow and ice response operations. Prior to an event, the OEM tracks potential large-scale events through several monitoring methods. These include but are not limited to regional calls with the National Oceanic and Atmospheric Administration's (NOAA) National Weather Service (NWS), tracking NWS active alerts, and communications with emergency operations staff throughout the Puget Sound area.

Depending on predicted severity, the OEM may schedule a pre-incident meeting to coordinate key agencies, providing information necessary for tactical awareness and coordination.

The Emergency Manager or City Manager may engage the Emergency Operations Center (EOC) at any point before or during inclement conditions. If the EOC is activated, the Maintenance Center will still function as the focal point for direct coordination of crew activities; however, the EOC may direct PWMO priorities for snow and ice control efforts or other emergency conditions.

4.2.5 Public Information

Within the CMO, communications staff provide residents, businesses, and others up-to-date reports and status of activities. Staff utilizes social media including Facebook, Twitter, Nextdoor, and the City's website.

4.3 Crews and Shift Scheduling

The Public Works Department has approximately 60 full-time Operations and Maintenance field staff, 30 with Commercial Driver's Licenses (CDL) required to drive snow plow equipped dump trucks, and 12 administrative and management staff at the Maintenance Center. The magnitude of a storm will have a direct bearing on the size of crew established.



During any winter event, the supervisor on-duty may need to adjust the initial response schedules as the weather event unfolds, and they may need to draw field crews from any or all divisions including Streets, Public Grounds, Water, Sewer, Storm, and Fleet.

Far more frequent than full-blown, largely anticipated, snow events, are forecast periods of freezing and/or high wind; these events may occur during or after regularly scheduled hours. Public Works management may shift schedules to provide weekend, early morning, and/or evening crews depending on weather forecasts. These small crews with a lead worker (skeleton crew) may be put on duty and will be assigned backup work to perform in case the forecasted event does not materialize.

For large winter weather events, short or long-term, the Public Works Director, the Public Works Superintendent, Division Managers, and/or the City Manager may shift Public Works Operations Maintenance staff to 24/7 coverage for snow and ice control. This coverage is comprised of three 8-hour shifts to maximize staff resources, make efficient use of equipment, and reduce staff fatigue. The shifts overlap each other by ½ hour in order to afford a 15-20 minute transition status meeting for each crew. The shifts are:

Day	6:30 am to 3:00 pm
Night	2:30 pm to 11:00 pm
Grave	10:30 pm to 7:00 am

During each shift, the supervisor on-duty will be responsible for coordinating, planning, scheduling, and dispatching crews. Staffing is typically pre-assigned to each shift with specific task and equipment assignments. The supervisors on-duty will operate under the general direction of the Division Public Works Director and Public Works Superintendent who will have oversight of the snow and ice control operations.

Supervisors and/or management are expected to perform a short meeting (15-20 minute) exchange of critical information before each shift activates. Briefings should happen regularly at the beginning and end of shifts. Generally, staff will follow this 24/7 shifting for as long as

needed to effectively satisfy the mission statement objectives. The decision to discontinue the shift schedules are made by the Public Works Director.

5. Communications

5.1 Internal

During inclement weather events, the coordination of crews is especially critical to ensure that emergency situations will be responded to in an efficient, effective and timely manner.

Public Works Maintenance and Operations staff have access to equipment for effective communication. In addition to field laptop computers, field crews currently utilize 10 hand-held portable radios and approximately 60 City owned cellphones for internal communication. During snow and ice events, office staff or the supervisor on-duty will staff the telephones and 800 MHz radio at the Maintenance Center. The appointed supervisor on-duty will deal directly with service requests at the Maintenance Center, with consideration to established priorities and limited resources.

The supervisor on-duty will complete a summary of snow and ice shift highlights at the end of each shift (example Appendix I) for communication and documentation purposes. The supervisor on-duty may also provide updates as required to the Public Outreach staff based on the event. The Public Works Superintendent will oversee the compilation of information and report to the Public Works Director, City Manager, or Communications Program Manager. Public Works will notify the City's Public Information Office and City Manager's Office if shifting is activated, and will update them regularly on operation status and issues.

5.2 External Agencies

Maintenance and Operations Center telephone lines are the Public Works Department's primary communication link to coordinating with other divisions, departments, and external agencies. Since telephone lines may fail, or be damaged during heavy snow or ice events, cell phones, or 800 MHz radios may be employed.

The City's Solid Waste Program Supervisor works directly with Waste Management to provide Kirkland residents with daily service alerts if inclement conditions are predicted to affect garbage collection services. This could include information about delays, cancellations, drop-off sites, etc., and will be available at <http://wmnorthwest.com/kirkland> or via out-dialer message.

NORCOM (North East King County Regional Public Safety Communication Agency) will provide site-specific emergency dispatching services to the phone messaging system the Public Works Department contracts with who then alert the Public Works command staff. Public Works command staff will make specific crew assignments.

The Kirkland Police Leadership in charge will provide regular assessments of current conditions to the Public Works Director and/or the supervisor on-duty if shifting has been activated. Public Works will respond to requests from the Police and Fire departments for site specific road

closures, and assist in preparing emergency response fleet equipment, provide fuel and other actions needed.

The Police Department, along with tow truck companies, may need to assist by towing stalled or abandoned vehicles to the nearest side street if these vehicles impede snow and ice response activities on priority arterials.

If the EOC is activated, it will serve as primary point of communication with a variety of external agencies including King County Transit, Lake Washington School District, Evergreen Hospital, Northwest University, Puget Sound Energy, and adjoining jurisdictions such as Redmond, Bothell, and Bellevue. The EOC may coordinate additional staffing or equipment to respond to an event if necessary, however the Maintenance Center will still function as the focal point for direct coordination of crew activities.

6. Operational Procedures

6.1 Anti-icing Application

The application of CaCl₂ is weather dependent; treatment may be applied when temperatures drop below 34 degrees Fahrenheit, and there is no rain. If CaCl₂ is applied to the roadway and temperatures rise above 40 degrees or humidity levels rise above 40 percent, the CaCl₂ can decrease traction on roadways and make travel less safe.

The Manual of Practice for an Effective Anti-Icing Program (Appendix H) provides guidance for application of liquid chemicals and solid chemicals under six different winter weather conditions.

Anti-icing chemicals should not to be combined or overlapped with non-calcium chloride de-icing chemicals. This is an important point for private parking lots. Anti-ice applications will track on tires often carrying chemicals from private lots to the public roadways.



6.2 Plowing

When approximately one inch of snow has accumulated, staff begins plowing according to established priority routes. On multi-lane roads, crews will typically plow snow to the right, from the center out to the shoulder. This is done so that melting snow doesn't flow across the travel lanes and refreeze when the temperature drops at night.

Crews are trained to avoid, if possible, pushing snow onto sidewalks, across driveways, storm drains, or in front of bus stops. However, in any city, urban factors such as parked cars, pedestrians, and narrow streets complicate snow removal. With large accumulations of snow over multiple days, conflicts with sidewalks, driveways, and other infrastructure cannot be fully avoided.



Cities with regular heavy snowfall often have winter parking restrictions that make it easier to plow streets. Since Kirkland does not have regular significant snowfall, these sorts of parking restrictions have not been implemented.

6.3 Sanding/Salting

In general, crews only apply sand (pre-wetted) at key intersections, steep grades, or in locations of historical ice accumulation along priority routes. Extended full-length sanding/salting of streets is not performed for a number of reasons: 1) there is typically limited sand/salt available to address more than the areas stated, 2) the over-use of these materials may be environmentally detrimental to the receiving watershed, 3) sand tends to migrate to curbs and shoulders once snow and ice melt occurs which provides potential hazards to bicyclists, and 4) unlike CaCl₂ which dissolves with time, in order to allow the storm water conveyance system to function as it should, post-storm cleaning is required to remove sand. As a BMP under the King County SPPM, crews are required to perform post-storm sweeping and cleanup on all roads where solid deicers and/or abrasives have been applied, and significant amounts of this work are not typically anticipated in assembling annual work plans. If necessary, three street sweepers and three eductor trucks are available for clean-up activities.

6.4 Debris Removal

If an event brings significant wind and/or wet snowfall, there is a high possibility that fallen tree canopy and other debris may impede Kirkland's road-transportation network. Appendix C identifies roads in Kirkland where debris is historically likely to fall within the public right-of-way.

According to the Transportation section of the City's Comprehensive Emergency Response Plan, "primary emphasis will be put on debris removal to allow for life safety and transport of essential resources coming into the community". If debris in the public right-of-way could impede the passage of emergency vehicles, staff should prioritize debris removal efforts.

6.5 Road Closures

During significant snow and ice events, the City may close especially hazardous streets that have steep grades and/or insufficient traction. Impacted streets are generally low-volume streets, although it may be necessary to close certain high-volume streets to sufficiently protect public safety. Public Works crews pre-stage road closure signs during winter months at some locations (Holmes Point Drive) and have access to road closure signs at the Maintenance Center warehouse.





















The Public Works Department will coordinate Street closures with the Police and Fire Departments during snow and ice events. Communications staff update the City's Facebook page identifying road closures/openings for the duration of storm events.


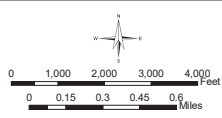


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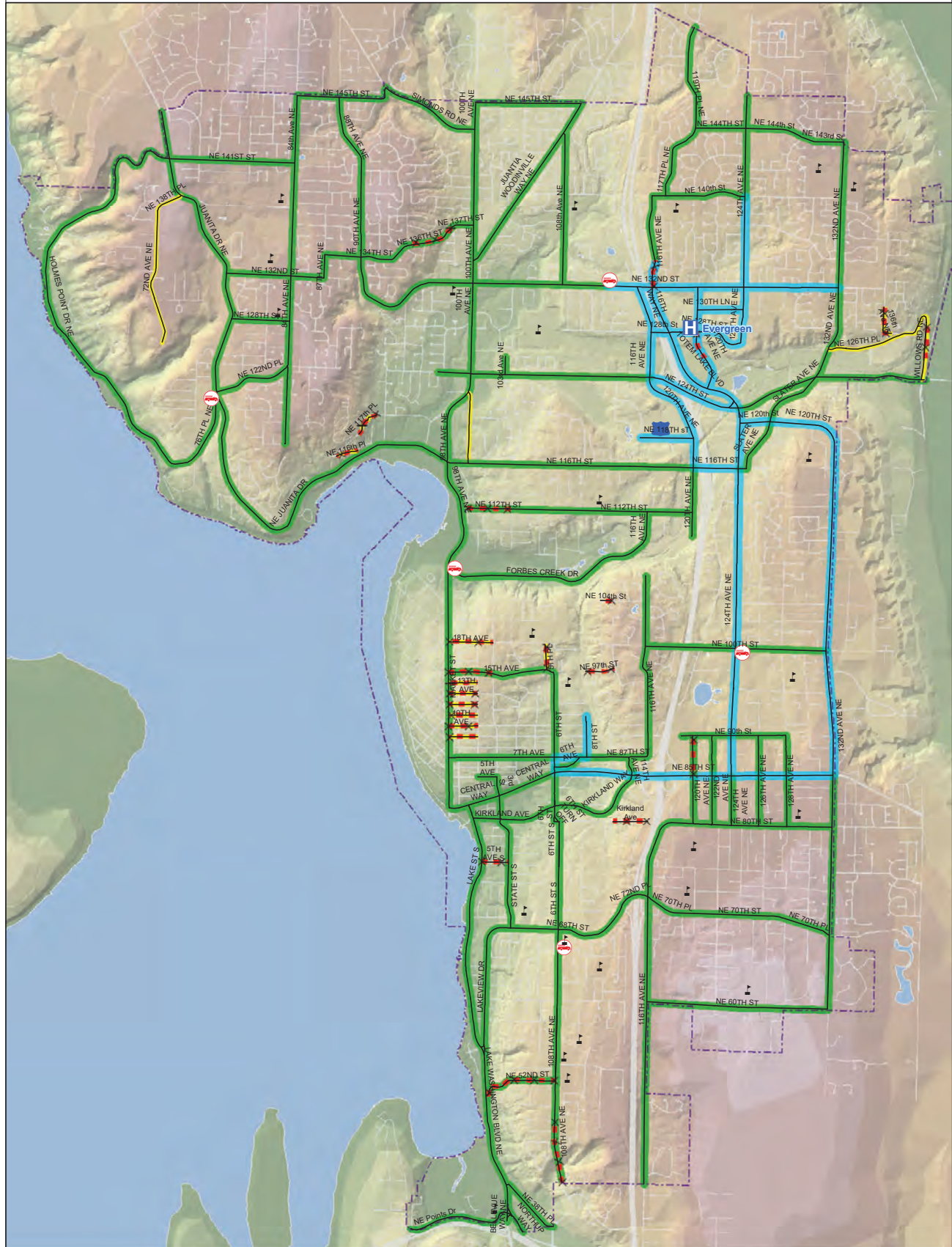
E-Page 248
**City of Kirkland
 Snow Plowing
 Routes**

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





	Kirkland Justice Center	Elevation		250 - 300
	Fire Stations			200 - 250
	POTENTIALLY CLOSED ROAD			150 - 200
	PRIORITY 1			100 - 150
	PRIORITY 2			50 - 100
	PRIORITY 3			0 - 50
	School Locations			300 - 350

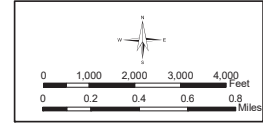



Author: Ray Steiger, P.E. - Superintendent
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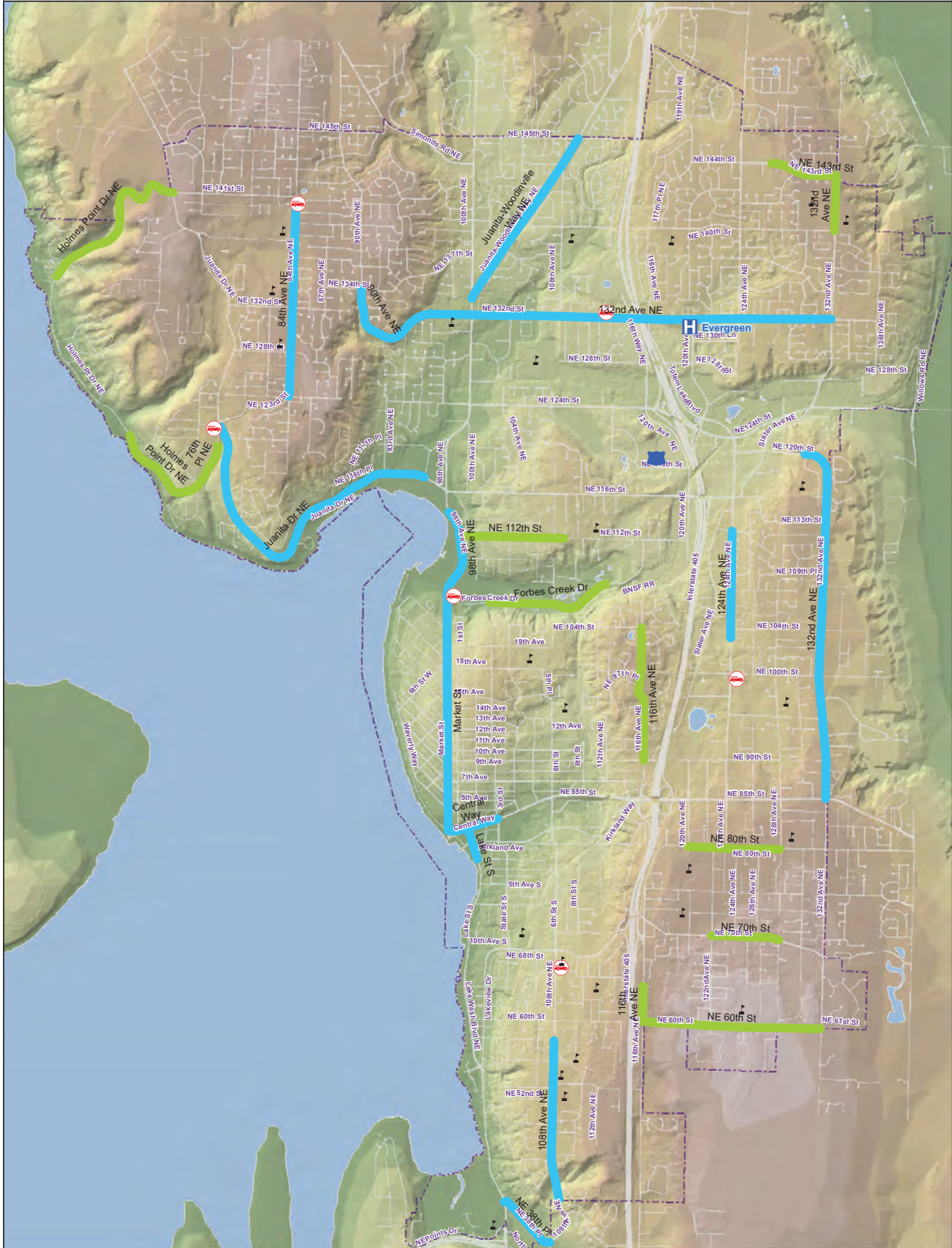
E-Page 250
City of Kirkland
Wind Storm
Sweeping Routes

-  Kirkland Justice Center
 -  Fire Stations
 -  PRIORITY 1
 -  PRIORITY 2
 -  School Locations
- | | | |
|-----------|--|-----------|
| Elevation |  | 250 - 300 |
| |  | 200 - 250 |
| |  | 150 - 200 |
| |  | 100 - 150 |
| |  | 50 - 100 |
| |  | 0 - 50 |



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 Name: 2019_COK_PostWindStormSweeping_11x17_Final
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Kirkland Snow/Ice Equipment - Winter 2019/2020

Primary Function



Sander 7 Yard with 175 Gal Pre-Wet System	Sander 4 Yard	Sander 7 Yard	*Sander 7 Yard
1	1	3	Reserve
D-13 (PW) 2018 Peterbilt 367 10 Yard Dump Truck	D-11 (PW) 2015 International 7500 7 Yard Hooklift Truck	D-10 (PW) 2013 Peterbilt 367 10 Yard Dump Truck	D-12 (PK) 2018 International 7400 5 yard Dump Truck
10' American Snow Plow Kuyper Ceramic Edge	10' American Snow Plow Rubber Edge	10' American Snow Plow Rubber Edge	*10' American Snow Plow Rubber Edge

Sander 4 Yard	Sander 4 Yard	Sander 4 Yard	Sander 4 Yard	
2	2	4	4	
D-1 (PW) 2006 International 5 Yard Dump Truck	D-2 (PW) 2006 International 5 Yard Dump Truck	D-3 (PW) 2006 International 5 Yard Dump Truck	*D-XX (PW) 2020 VEHICLE 5 Yard Dump Truck	*SP-01 (PW) Anti-ice Sprayer 2020 Ford F450 4x4
10' American Snow Plow Kuyper Ceramic Edge	10' American Snow Plow Kuyper Ceramic Edge	10' American Snow Plow Kuyper Ceramic Edge	10' American Snow Plow Kuyper Ceramic Edge	*SP-02 (PW) Anti-ice Sprayer 2020 Ford F450 4x4

Sander 2 Yard	Sander 2 Yard			
PU-71 (PW) 2008 Ford F350 4x4 Pick-up	PU-111 (PK) 2012 Ford F350 4x4 Pick-up	PU-72 (PK) 2008 Ford F350 4x4 Pick-up	PU-79 (PK) 2009 Ford F350 4x4 Pick-up	PU-38X (PK) Anti-ice Sprayer 2006 Ford F350 4x4
8' Boss Snow Plow Metal Edge	8' Boss Snow Plow Metal Edge	8' Boss Snow Plow Metal Edge	8' Boss Snow Plow Metal Edge	

Walk behind Snow Blower #1

Walk behind Snow Blower #2

G-02
1988 John Deere Grader
Model 570B
12' Blade Plow
Rubber Edge

X Typical Event Set-up Order

D-9
2009 Peterbilt
10 Yard Dump truck
Material Hauler

L-02
2007 Case 621D
Loader
Material Transport

* Equipment available late 2019

Roads

Facilities & Parking Lots

Maint Yard

A-40 Street Deicing Operations

This activity applies to deicing and anti-icing operations on streets and highways to control ice and snow.

Best Management Practices (BMPs) are required by King County Code 9.12. If the BMPs included here are not enough to prevent contamination of stormwater, you will be required to take additional measures.

Required BMPs:

- Select deicers and anti-icing materials such as sand, calcium chloride, magnesium acetate, potassium acetate, or similar materials that cause less adverse environmental impact than urea, and sodium chloride.
- Apply only as needed using minimum quantities. Adhere to manufacturers and industry standards of use and application.
- Store de/anti-icing materials (except for sand) in an impervious containment area to keep the material from entering storm or natural drainage systems. Maintain sand piles so that sand cannot wash into the storm drain system.
- Transfer liquid de/anti-icing materials in the containment area or use a drip pan under the hose connection.
- Sweep/clean up accumulated de/anti-icing materials and grit from roads as soon as possible after the road surface clears.
- Minimize use in areas where runoff or spray from the roadway immediately enters sensitive areas such as fish-bearing streams.

Supplemental BMPs:

- Intensify roadway cleaning in early spring to help remove particulates from road surfaces.
- Switch products to one with a lower amount of metals.

Additional Information:

For more information or assistance contact the King County Stormwater Services at 206-477-4811 and visit kingcounty.gov/stormwater.

S406 BMPs for Streets and Highways

Description of Pollutant Sources: These BMPs apply to the maintenance and deicing/anti-icing of streets and highways. Deicing products can be conveyed during storm events to inlets/catch basins or to receiving waters after application. Leaks and spills of these products can also occur during their handling and storage. Equipment and processes used during maintenance can contribute pollutants such as oil and grease, suspended solids, turbidity, high pH, and metals.

Pollutant Control Approach: Apply good housekeeping practices, preventative maintenance, properly train employees, and use materials that cause less adverse effects on the environment.

Applicable BMPs:

Deicing and Anti-Icing Operations

- Adhere to manufacturer's guidelines and industry standards of use and application.
- Store and transfer de and anti-icing materials on impervious containment pads, or an equivalent spill/leak containment area in accordance with [S429 BMPs for Storage or Transfer \(Outside\) of Solid Raw Materials, Byproducts, or Finished Products](#).
- Sweep/clean up accumulated de and anti-icing materials and grit from roads as soon as possible after the road surface clears.
- Minimize use in areas where runoff or spray from the roadway immediately enters sensitive areas such as fish-bearing streams.

Maintenance Operations

- Use drip pans or absorbents wherever concrete, asphalt, asphalt emulsion, paint product, and drips are likely to spill, such as beneath discharge points from equipment.
- Cover and contain nearby storm drains to keep runoff from entering the drainage system.
- Collect and contain all solids, slurry, and rinse water. Do not allow these to enter gutters, storm drains, or drainage ditches or onto the paved surface of a roadway or driveway.
- Designate an area onsite for washing hand tools and collect that water for disposal.
- Conduct all fueling of equipment in accordance with [S419 BMPs for Mobile Fueling of Vehicles and Heavy Equipment](#).
- Do not use diesel fuel for cleaning or prepping asphalt tools and equipment.

- Sweep areas as frequently as needed. Collect all loose aggregate and dust for disposal. Do not hose down areas into storm drains.
- Store all fuel, paint, and other products on secondary containment.
- Conduct paint striping operations during dry weather.

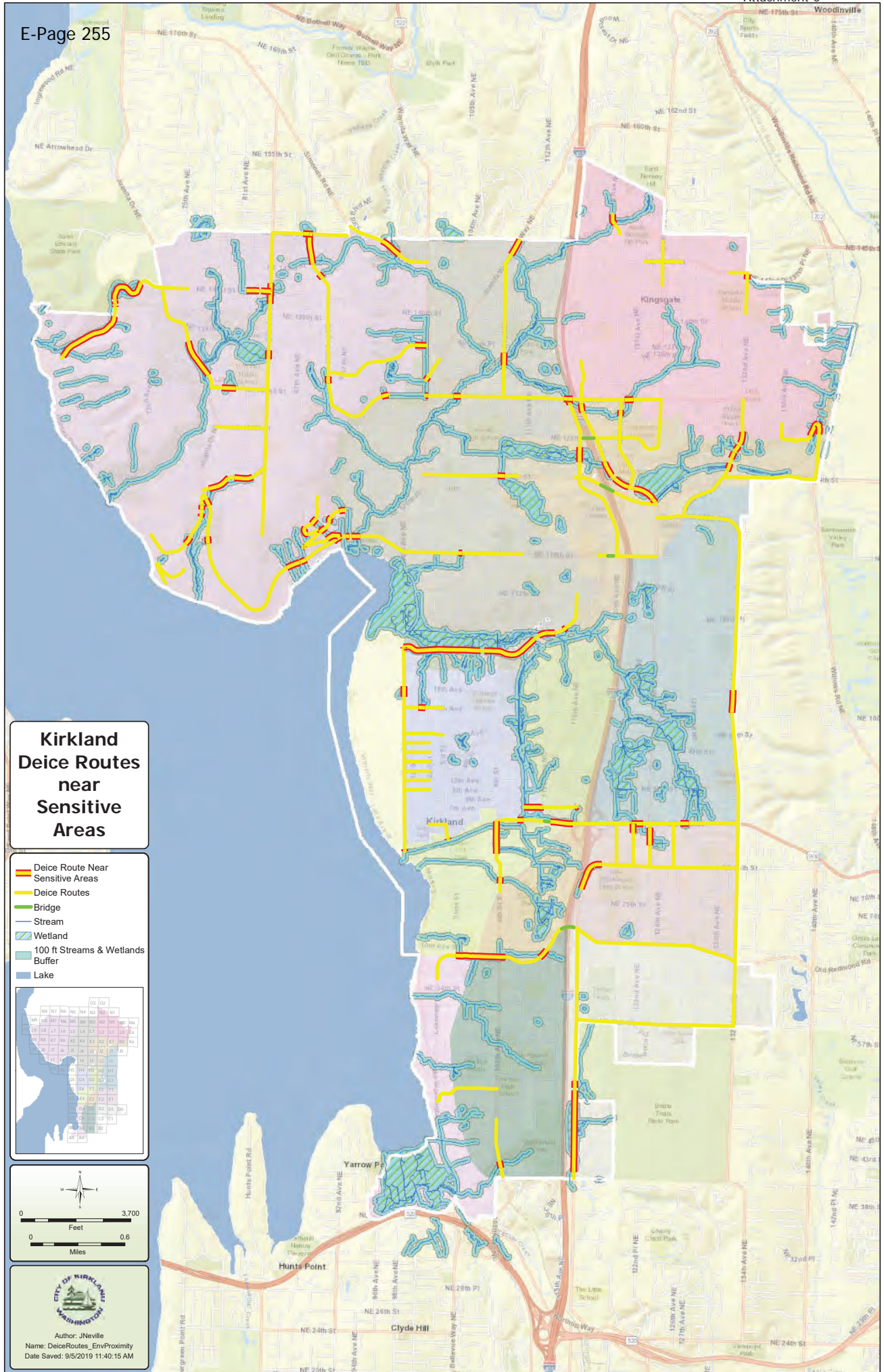
Recommended Additional BMPs:

- Where feasible and practicable, use roadway deicing chemicals that cause the least adverse environmental impact. Apply only as needed using minimum quantities. Consider the Pacific Northwest Snowfighters Qualified Products List when selecting roadway de-icers and anti-icers.
- Intensify roadway and drainage structure cleaning in early spring to help remove particulates from road surfaces.
- Include limits on toxic metals in the specifications for de/anti-icers.
- Install catch basin inserts to collect excess sediment and debris as necessary. Inspect and maintain catch basin inserts to ensure they are working correctly.
- Research admixtures (e.g. corrosion inhibitors, surfactants) to determine what additional pollutants may be an issue. Verify with the local jurisdiction if there are any restrictions on admixtures.

Washington State Department of Ecology

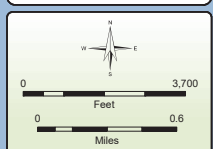
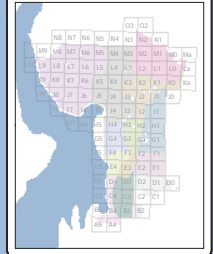
2019 Stormwater Management Manual for Western Washington (2019 SWMMWW)

Publication No.19-10-021



Kirkland Deice Routes near Sensitive Areas

- Deice Route Near Sensitive Areas
- Deice Routes
- Bridge
- Stream
- ▨ Wetland
- ▨ 100 ft Streams & Wetlands Buffer
- ▨ Lake



Author: J.Neville
Name: DeiceRoutes_EnvProximity
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MATERIAL APPLICATION GUIDELINES

1. INTRODUCTON

The following material application guidelines are intended to complement WSDOT region and area application guidelines which better represent practices unique to their own geographical location. These guidelines may serve as a basis for such local guidelines, or be used in kind to support decision-making and best management practices of a systematic anti-icing program. Local application guidelines which have regional management concurrence should always take precedence.

The department is also committed to reducing corrosion and maximizing the performance characteristics of solid material. Towards that end, the statewide standard application for solid material will be to pre-wet solid material with a minimum of 10 gallons of corrosion inhibited liquid anti-icer. A higher concentration of liquid anti-icer in combination with solid material is both allowed and recommended as such applications have been shown to be extremely effective in a variety of road and weather conditions.

This guide is based upon the Federal Highway Administration's (FHWA) "Manual of Practice for an Effective anti-icing Program" and the "National Cooperative Highway Research Program" (NCHRP) 6-13. The Manual of Practice for an Effective anti-icing Program provides the results of four years of anti-icing field-testing conducted by 15 State highway agencies and supported by the Strategic Highway Research Program (SHRP) and the Federal Highway Administration (FHWA). This guide also uses information obtained from the National Cooperative Highway Research Program (NCHRP) 6-13. Both manuals provide application rates for Sodium Chloride (NaCl). This Guide has been prepared to show equivalent material application rates for Calcium Chloride (CaCl₂), Magnesium Chloride (MgCl₂), and Calcium Magnesium Acetate (CMA)

2. GUIDANCE FOR ANTI-ICING OPERATIONS

Guidance for anti-icing operations is presented in Tables 1 to 6 for six distinctive winter weather events. The six events are:

1. Light Snow Storm
2. Light Snow Storm with Period(s) of Moderate or Heavy Snow
3. Moderate or Heavy Snow Storm
4. Frost or Black Ice
5. Freezing Rain Storm
6. Sleet Storm

The tables suggest appropriate maintenance actions to take during either an initial or subsequent (follow-up) anti-icing operation for a given weather event. Each action is defined for a range of pavement temperatures and an associated air temperature trend. For some events, the operation is dependent not only on the pavement temperature and trend, but also upon the pavement surface or traffic condition at the time of the anti-icing action. Most of the maintenance actions involve chemical applications in a solid, liquid, or pre-wetted solid form. Application rates or "spread rates" are given for each chemical option to be used appropriately. These are suggested values and should be adjusted, if necessary, to achieve increased effectiveness or efficiency, for local conditions. Application rates in volumetric units (gal/lane-mi) are calculated from dry chemical rates. Comments and notes are given in each table where appropriate to further guide the maintenance field personnel in their anti-icing operations.

3. GLOSSARY OF TERMS

Black Ice: Popular term for a very thin coating of clear, bubble-free, homogeneous ice which forms on a pavement with a temperature at or slightly above 32°F when the temperature of the air in contact with the ground is below the freezing-point of water and small slightly super cooled water droplets deposit on the surface and coalesce (flow together) before freezing.

Freezing Rain: Super cooled droplets of liquid precipitation falling on a surface whose temperature is below or slightly above freezing, resulting in a hard, slick, generally thick coating of ice commonly called glaze or clear ice. Non-super cooled raindrops falling on a surface whose temperature is well below freezing will also result in glaze.

Frost: Also called hoarfrost. Ice crystals in the form of scales, needles, feathers or fans deposited on surfaces cooled by radiation or by other processes. The deposit may be composed of drops of dew frozen after deposition and of ice formed directly from water vapor at a temperature below 32°F (sublimation).

Light Snow: Snow falling at the rate of less than 1/2 inch per hour; visibility is not affected adversely.

Liquid Chemical: A chemical solution; the volume of solution applied per lane mile is the chemical application rate used in this appendix.

Moderate or Heavy Snow: Snow falling at a rate of 1/2 inch per hour or greater; visibility is significantly reduced.

Sleet: A mixture of rain and snow, which has been partially melted by falling through an atmosphere with a temperature slightly above freezing.

Slush: Accumulation of snow, which lies on an impervious base and is saturated with water in excess of its freely drained capacity. It will not support any weight when stepped or driven on but will “squish” until the base support is reached.

Pre-wetting: The practice of applying liquid chemical to dry material before it is placed on the pavement

Dry Chemical Spread Rate. For solid chemical applications, it is simply the weight of the chemical applied per lane mile. For liquid applications it is the amount of liquid chemical applied per lane mile.

**Table 1. Weather event: LIGHT SNOW
Using a 32% concentration of Calcium Chloride**

PAVEMENT TEMPERATURE RANGE, AND TREND	INITIAL OPERATION			SUBSEQUENT OPERATIONS		COMMENTS
	Pavement surface at time of Initial operation	Maintenance Action	Chemical spread rate (gal/l _n -mi) Liquid CaCl ₂	Maintenance Action	Chemical spread rate (gal/l _n -mi) Liquid CaCl ₂	
Above 32°F, Steady or rising	Dry, wet, slush, or light snow cover	None, see comments	N/R	None, see comments	N/R	N/R=Not Recommended *Monitor pavement temperature closely *Treat icy patches if needed with chemical at 15-35 GPLM... plow if needed
32°F, or below is imminent; <i>ALSO</i> 20 to 32°F, Remaining in range	Dry	Apply liquid	15-35	Plow as needed; reapply liquid Chemical when needed	15-35	*Application rates will depend on dilution potential
15 to 20°F, Remaining in range	Wet, slush, or light snow cover		20-40		20-40	
Below 15°F, Steady or falling	Dry, wet, slush, or light snow cover		30-65		30-65	
Below 15°F, Steady or falling	Dry or light snow cover	Plow as needed	N/R	Plow as needed	N/R	* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to *prevent* deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

SOLID DEICER: See Sodium Chloride for application recommendations.

Table 2. Weather event: LIGHT SNOW STORM WITH PERIOD (S) OF MODERATE OR HEAVY SNOW

Using a 32% concentration of **Calcium Chloride**

PAVEMENT TEMPERATURE RANGE, AND TREND	INITIAL OPERATION			SUBSEQUENT OPERATIONS		COMMENTS N/R=Not Recommended
	Pavement surface at time of Initial operation	Maintenance Action	Chemical spread rate (gal/l _n -mi) Liquid CaCl₂	Maintenance Action	Chemical spread rate (gal/l _n -mi) Liquid CaCl₂	
Above 32°F, Steady or rising	Dry, wet, slush, or light snow cover	None, see comments	N/R	None, see comments	N/R	*Monitor pavement temperature closely *Treat icy patches if needed with chemical at 15-35 GPLM... plow if needed
32°F, or below is imminent;	Dry	Apply liquid	15-35	Plow as needed; reapply liquid Chemical when needed	15-35	*Do not apply liquid chemical onto heavy snow accumulation or packed snow * Application rates will depend on dilution potential
ALSO 20 to 32°F, Remaining in range	Wet, slush, or light snow cover		20-40		20-40	
15 to 20°F, Remaining in range	Dry, wet, slush, or light snow cover		30-70		30-70	
Below 15°F, Steady or falling	Dry or light snow cover	Plow as needed	N/R	Plow as needed	N/R	* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to *prevent* deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

SOLID DEICER: See Sodium Chloride for application recommendations.

Table 3. Weather event: MODERATE OR HEAVY SNOW STORMUsing a 32% concentration of **Calcium Chloride**

PAVEMENT TEMPERATURE RANGE, AND TREND	INITIAL OPERATION			SUBSEQUENT OPERATIONS		COMMENTS N/R=Not Recommended
	Pavement surface at time of Initial operation	Maintenance Action	Chemical spread rate (gal/l _n -mi) Liquid CaCl ₂	Maintenance Action	Chemical spread rate (gal/l _n -mi) Liquid CaCl ₂	
Above 32°F, Steady or rising	Dry, wet, slush, or light snow cover	None, see comments	N/R	None, see comments	N/R	*Monitor pavement temperature closely *Treat icy patches if needed with chemical at 15-35 GPLM plow if needed
32°F, or below is imminent;	Dry	Apply pre-wet solid NaCl	N/R	Plow accumulation and reapply pre-wet solid chemical as needed	N/R	* If sufficient moisture is present, solid chemical without pre-wetting can be applied * Do not apply liquid chemical onto heavy snow accumulation or packed snow
ALSO 20 to 32°F, Remaining in range	Wet, slush, or light snow cover		N/R		N/R	
15 to 20°F, Remaining in range	Dry, wet, slush, or light snow cover		N/R		N/R	
Below 15°F, Steady or falling	Dry or light snow cover	Plow accumulation as needed	N/R	Plow accumulation as needed	N/R	* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to *prevent* deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

SOLID DEICER: See Sodium Chloride for application recommendations.

**Table 4. Weather event: FROST OR BLACK ICE
Using a 32% concentration of Calcium Chloride**

PAVEMENT TEMPERATURE RANGE, AND TREND	TRAFFIC CONDITION	INITIAL OPERATION		SUBSEQUENT OPERATIONS		COMMENTS
		Maintenance Action	Chemical spread rate (gal/l _n -mi) Liquid CaCl₂	Maintenance Action	Chemical spread rate (gal/l _n -mi) Liquid CaCl₂	
32°F, Steady or rising	Any level	None, see comments	N/R	None, see comments	N/R	*Monitor pavement temperature closely; begin treatment if temperature starts to fall to 32°F or below and is at or below dew point
28 to 32°F, Remaining in range or falling 32°F or below, and equal to or below dew point	Traffic rate less than 100 vehicles per hour	Apply liquid chemical	10-25	Reapply liquid chemical as needed	10-25	* Application rates will depend on dilution potential
	Traffic rate greater than 100 vehicles per hour		20-35		20-35	
15 to 28°F, Remaining in range, and equal to or below dew point	Any level		20-40		25-40	* Application rates will depend on dilution potential
Below 15°F, Steady or falling	Any level	Apply abrasives	N/R	Apply abrasives as needed	N/R	* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to *prevent* deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

Table 5. Weather event: FREEZING RAINSTORM

Using a 30% concentration of **Magnesium Chloride**

Using a 32% Calcium ***Chloride***

Using a 25% concentration of **CMA**

CHEMICAL APPLICATIONS: It is possible to use these chemicals during this event but is not recommended. However, these products can be used through a pre-wet system to increase solid / abrasive efficacy. The application rate for liquids alone would be cost prohibitive and the potential for dilution is high. It is recommended to use a solid chemical application or abrasives.

Using Solid **Sodium Chloride**

PAVEMENT TEMPERATURE RANGE, AND TREND	INITIAL OPERATION		SUBSEQUENT OPERATIONS		COMMENTS
	Maintenance Action	Chemical spread rate (lb/ln-mi) NaCl	Maintenance Action	Chemical spread rate (lb/ln-mi) NaCl	
Above 32°F, Steady or rising	None, see comments	N/R	None, see comments	N/R	N/R=Not Recommended * Monitor pavement temperature closely *Treat icy patches if needed with pre-wetted solid chemical at 100--150 lb/lane-mi
32°F, or below is imminent	Apply solid chemical	100-200	Reapply solid chemical as needed	100-200	*Monitor pavement temperature and precipitation closely * Application rates will depend on dilution potential
20 to 32°F, Remaining in range		200-300		200-300	
15 to 20°F, Remaining in range		250-400		250-400	
Below 15°F, Steady or falling	Apply abrasives	N/R	Apply abrasives as needed	N/R	* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to *prevent* deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

Table 6. Weather event: SLEET STORM

Using a 32% concentration of Calcium Chloride

PAVEMENT TEMPERATURE RANGE, AND TREND	INITIAL OPERATION	SUBSEQUENT OPERATIONS	COMMENTS
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	Maintenance Action	Liquid CaCl₂	Maintenance Action	Liquid CaCl₂	N/R=Not Recommended
Above 32°F, Steady or rising	None, see comments	N/R	None, see comments	N/R	Go to Sodium Chloride Chart
32°F, or below is imminent	Apply solid NaCl	N/R	Plow accumulation and reapply pre-wet solid chemical as needed	N/R	
28 to 32°F, Remaining in range					
15 to 28°F, Remaining in range					
Below 15°F, Steady or falling	Plow as needed	N/R	Plow as needed	N/R	

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to *prevent* deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

**Table 1. Weather event: LIGHT SNOW
Using a 23% concentration of Sodium Chloride**

PAVEMENT TEMPERATURE RANGE, AND TREND	INITIAL OPERATION			SUBSEQUENT OPERATIONS			COMMENTS
	Pavement surface at time of Initial operation	Maintenance action	Chemical spread rate (gal/h-mi or lb/h-mi)	Maintenance action	Chemical spread rate (gal/h-mi or lb/h-mi)	COMMENTS	
			Liquid NaCl		Solid or pre-wet solid (lb)		
Above 32°F, Steady or rising	Dry, wet, slush, or light snow cover	None, see comments	N/R	None, see comments	N/R	N/R=Not Recommended	*Monitor pavement temperature closely *Treat icy patches if needed with chemical at 100 lb/lane-mi; plow if needed
32°F, or below is imminent;	Dry	Apply liquid or pre-wet solid chemical	40-50	Plow as needed; reapply liquid or solid chemical when needed	75-125		*Application rates will depend on dilution potential
ALSO 20 to 32°F, Remaining in range	Wet, slush, or light snow cover	Apply liquid or solid chemical	40-90		100-210		
15 to 20°F, Remaining in range	Dry, wet, slush, or light snow cover	Apply pre-wet solid chemical	N/R	Plow as needed; reapply pre-wet solid chemical when needed	200-240		*If sufficient moisture is present, solid chemical without pre-wetting can be applied *Application rates will depend on dilution potential
Below 15°F, Steady or falling	Dry or light snow cover	Plow as needed	N/R	Plow as needed	N/R		* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to prevent deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

Table 2. Weather event: LIGHT SNOW STORM WITH PERIOD (S) OF MODERATE OR HEAVY SNOW

Using a 23% concentration of Sodium Chloride

PAVEMENT TEMPERATURE RANGE, AND TREND	INITIAL OPERATION				SUBSEQUENT OPERATIONS				COMMENTS	
	Pavement surface at time of Initial operation	Maintenance Action	Chemical spread rate (gal/in-mi or lb/in-mi)		Maintenance Action	Chemical spread rate (gal/in-mi or lb/in-mi)				
			Liquid NaCl	Solid or pre-wet Solid		Liquid NaCl	Light snow	Heavier snow		Light snow
Above 32°F, Steady or rising	Dry, wet, slush, or light snow cover	None, see comments	N/R	N/R	None, see comments	N/R	N/R	N/R	N/R	N/R=Not Recommended
2°F, or below is imminent;	Dry	Apply liquid or pre-wet solid chemical	40-65	75-150	Plow as needed; reapply liquid or solid chemical when needed	40-50	50-65	75-125	150-200	*Do not apply liquid chemical onto heavy snow accumulation or packed snow * Application rates will depend on dilution potential
ALSO 25 to 32°F, Remaining in range	Wet, slush, or light snow cover	Apply liquid or solid chemical	65-90	175-200	Plow as needed; reapply pre-wet solid chemical when needed	65-80	80-90	175-185	190-200	* If sufficient moisture is present, solid chemical without pre-wetting can be applied * Application rates will depend on dilution potential
15 to 25°F, Remaining in range	Dry, wet, slush, or light snow cover	Apply pre-wet solid chemical	N/R	200-230	Plow as needed	N/R	N/R	200-230	200-250	* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction
Below 15°F, Steady or falling	Dry or light snow cover	Plow as needed	N/R	N/R	Plow as needed	N/R	N/R	N/R	N/R	

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to prevent deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

Table 3. Weather event: MODERATE OR HEAVY SNOW STORM**Using a 23% concentration of Sodium Chloride**

PAVEMENT TEMPERATURE RANGE, AND TREND	INITIAL OPERATION				SUBSEQUENT OPERATIONS			COMMENTS
	Pavement surface at time of Initial operation	Maintenance Action	Chemical spread rate (gal/ln-mi or lb/ln-mi)		Maintenance Action	Chemical spread rate (gal/ln-mi or lb/ln-mi)		
			Liquid NaCl	Solid or pre-wet Solid		Liquid NaCl	Solid or pre-wet solid	
Above 32°F, Steady or rising	Dry, wet, slush, or light snow cover	None, see comments	N/R	N/R	N/R	N/R	N/R=Not Recommended	*Monitor pavement temperature closely *Treat icy patches if needed with chemical at 40-65 GPLM; plow if needed
32°F, or below is imminent;	Dry	Apply liquid or pre-wet solid chemical	40-65	75-150	Plow accumulation and reapply liquid or pre-wet solid chemical as needed	50-65	150-200	*Do not apply liquid chemical onto heavy snow accumulation or packed snow * Application rates will depend on dilution potential
ALSO 25 to 32°F, Remaining in range	Wet, slush, or light snow cover	Apply solid chemical	N/R	175-200	Plow accumulation and reapply pre-wet solid chemical as needed	80-90	190-200	* If sufficient moisture is present, solid chemical without pre-wetting can be applied * Application rates will depend on dilution potential
15 to 25°F, Remaining in range	Dry, wet, slush, or light snow cover	Apply pre-wet solid chemical	N/R	200-230	Plow as needed; reapply pre-wet solid chemical when needed	N/R	200-250	
Below 15°F, Steady or falling	Dry or light snow cover	Plow as needed	N/R	N/R	Plow as needed	N/R	N/R	* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to prevent deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

Table 4. Weather event: ***FROST OR BLACK ICE***Using a 23% concentration of ***Sodium Chloride***

PAVEMENT TEMPERATURE RANGE, TREND	TRAFFIC CONDITION	INITIAL OPERATION		SUBSEQUENT OPERATIONS		COMMENTS	
		Maintenance Action	Chemical spread rate (gal/ln-mi or Lb/ln-mi)	Maintenance Action	Chemical spread rate (gal/ln-mi or lb/ln-mi)		
		Liquid NaCl	Solid or pre-wet solid	Liquid NaCl	Solid or pre-wet solid		
32°F, Steady or rising	Any level	None, see comments	N/R	None, see comments	N/R	N/R=Not Recommended	
	28 to 32°F, Remaining in range or falling 32°F or below, and equal to or below dew point	Apply liquid or pre-wet solid chemical	45-60 45-75	100-130 100-130	45-60 45-75	100-130 100-130	*Monitor pavement temperature closely; begin treatment if temperature starts to fall to 32°F or below and is at or below dew point * Application rates will depend on dilution potential
20 to 28°F, Remaining in range, and equal to or below dew point	Traffic rate less than 100 vehicles per h	Apply pre-wet solid chemical	45-60	100-130	45-60	100-130	* Application rates will depend on dilution potential
	15 to 20°F, Remaining in range, and equal to or below dew point	Apply pre-wet solid chemical	45-75	100-130	45-75	100-130	* Application rates will depend on dilution potential
Below 15°F, Steady or falling	Any level	Apply abrasives	N/R	Apply abrasives as needed	N/R	175-225	* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction
		Apply abrasives	65-80	165-200	65-80	165-200	

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to prevent deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

Table 5. Weather event: FREEZING RAINSTORM

Using a 30% concentration of **Magnesium Chloride**

Using a 32% concentration of **Calcium Chloride**

Using a 25% concentration of **CMA**

CHEMICAL APPLICATIONS: It is possible to use these chemicals during this event but is not recommended. However, these products can be used through a pre-wet system to increase solid / abrasive efficacy. The application rate for liquids alone would be cost prohibitive and the potential for dilution is high. It is recommended to use a solid chemical application or abrasives.

Using Solid **Sodium Chloride**

PAVEMENT TEMPERATURE RANGE, AND TREND	INITIAL OPERATION		SUBSEQUENT OPERATIONS		COMMENTS
	Maintenance Action	Chemical spread rate (lb/ln-mi) NaCl	Maintenance Action	Chemical spread rate (lb/ln-mi) NaCl	
					N/R=Not Recommended
Above 32°F, Steady or rising	None, see comments	N/R	None, see comments	N/R	* Monitor pavement temperature closely *Treat icy patches if needed with pre-wetted solid chemical at 100--150 lb/lane-mi
32°F, or below is imminent	Apply solid chemical	100-200	Reapply solid chemical as needed	100-200	*Monitor pavement temperature and precipitation closely * Application rates will depend on dilution potential
20 to 32°F, Remaining in range		200-300		200-300	
15 to 20°F, Remaining in range		250-400		250-400	
Below 15°F, Steady or falling	Apply abrasives	N/R	Apply abrasives as needed	N/R	* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to *prevent* deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

Table 6. Weather event: SLEET STORMUsing a 23% concentration of **Sodium Chloride**

PAVEMENT TEMPERATURE RANGE, AND TREND	INITIAL OPERATION		SUBSEQUENT OPERATIONS		COMMENTS
	Maintenance Action	Chemical spread rate, lb/lane-mi NaCl	Maintenance Action	Chemical spread rate, lb/lane-mi NaCl	
Above 32°F, Steady or rising	None, see comments	N/R	None, see comments	N/R	N/R=Not Recommended * Monitor pavement temperature closely *Treat icy patches if needed with pre-wetted solid chemical at 100-150 lb/lane-mi
32°F, or below is imminent	Apply solid chemical	125	Plow accumulation and reapply pre-wet solid chemical as needed	125	*Monitor pavement temperature and precipitation closely * Application rates will depend on dilution potential
28 to 32°F, Remaining in range		125-325		125-325	
15 to 28°F, Remaining in range		250-400		250-400	
Below 15°F, Steady or falling	Plow as needed	N/R	Plow as needed	N/R	* It is not recommended that chemicals be applied in this temperature range * Abrasives can be applied to enhance traction

CHEMICAL APPLICATIONS: These application rates are starting points. Local experience should refine these recommendations. Time chemical applications to *prevent* deteriorating conditions or development of packed and bonded snow. Monitor temperature and humidity to determine application timing.

PLOWING: Before applying any ice control chemical, the surface should be cleared of as much snow and ice as possible

CHEMICAL RATES: The recommended snow and ice control material application rates depend on atmospheric and pavement conditions at the time of treatment and on how these conditions are expected to change over the time period (window) between the current treatment and the next anticipated treatment.

REPORT FORMAT FOR COMMUNICATION STATUS OF SNOW AND ICE PUBLIC WORKS SHIFT RESULTS

DATE: _____

SHIFT (circle one): _____ **DAY – NIGHT – SWING** _____

STORM SUPERVISOR ON DUTY: _____

General Information/Highlights to Report (example: road closures, special requests, accomplished routes, abandon cars, Transportation Center condition status, staff accidents, staff injuries):

FLEET CONDITION (List equipment that is reported to fleet for repair and not available for next shift)

MATERIAL STOCK (List amount of material remaining in yard – sand, deicer, brine)

STAFF ATTENDANCE (Identify who did not report to work and status for return to work):

NOTE: WAREHOUSE INFORMATION COLLECTED ON DEICER APPLICATIONS – where applied, how much applied last shift overall.

ATTACH MAP & PHOTOS (If needed)

EMERGENCY RESPONSE TIMESHEET *(Please Print Legibly)*

*** Complete this sheet instead of your daily timesheet. ***

*** Time entered needs to be by activity. ***

DAY & DATE: _____

NAME & RADIO #: _____

#1 ACTIVITY/CATEGORY: *Describe the type of work you were doing.*

LOCATION/AREA *(be specific):* _____

TIME: *Show ALL hours worked between 12:01 a.m. and midnight – hours worked after midnight must be on tomorrow's sheet. DO NOT INCLUDE TIME FOR MISSED MEAL BREAKS HERE.*

Shift worked: _____ am pm to _____ am pm Hours: _____ Reg _____ OT _____ CT

Shift worked: _____ am pm to _____ am pm Hours: _____ Reg _____ OT _____ CT

Other Employees on Crew: _____

MEAL BREAKS: *You are entitled to a meal break for every 5 hours worked.*

of meal breaks due: _____ # of meal breaks taken: _____ # of missed meals: _____

EQUIPMENT:

Vehicle #: _____ Primary Operator? Y N

Hours as Primary Operator: _____ am pm to _____ am pm

Vehicle #: _____ Primary Operator? Y N

Hours as Primary Operator: _____ am pm to _____ am pm

MATERIAL/SPOILS:

Materials used for this activity:

Spoils collected for this activity:

#2 ACTIVITY/CATEGORY: *Describe the type of work you were doing.*

LOCATION/AREA *(be specific):* _____

TIME: *Show ALL hours worked between 12:01 a.m. and midnight – hours worked after midnight must be on tomorrow's sheet. DO NOT INCLUDE TIME FOR MISSED MEAL BREAKS HERE.*

Shift worked: _____ am pm to _____ am pm Hours: _____ Reg _____ OT _____ CT

Shift worked: _____ am pm to _____ am pm Hours: _____ Reg _____ OT _____ CT

Other Employees on Crew: _____

MEAL BREAKS: *You are entitled to a meal break for every 5 hours worked.*

of meal breaks due: _____ # of meal breaks taken: _____ # of missed meals: _____

EQUIPMENT:

Vehicle #: _____ Primary Operator? Y N

Hours as Primary Operator: _____ am pm to _____ am pm

Vehicle #: _____ Primary Operator? Y N

Hours as Primary Operator: _____ am pm to _____ am pm

MATERIAL/SPOILS:

Materials used for this activity:

Spoils collected for this activity:

Category A – Debris Removal: sand bag removal, catch basin silt removal, roadway silt removal, danger tree removal, clogged culvert, floodway and channel obstruction, sweeping debris from roads, debris removal from water intake/outflow pipes, storm water flap gates

Category B – Emergency Protective Measures: snow and ice removal, respond to emergency calls, EOC operations, emergency evacuation, search-and-rescue, traffic control and flagging operations, sandbagging operations, emergency flood-fighting operations, emergency generator operations – pump stations monitoring and operations; emergency shelter operations, emergency office relocation, emergency barricading and sandbagging, emergency signage, emergency power shutdown to threatened facilities, emergency protection of building and septic system, donated resources (sandbagging, search-and-rescue, labor, equipment, material)

Category C – Roads and Bridges: road damage, roadway settlement, gravel road repair, road shoulder and embankment repair, road shoulder and culvert repair, road surfacing and ditch repair, bridge damage, bridge abutment damage, sidewalk repair, guardrail repair, chip, seal, and gravel road repair, retaining wall repair, repair City street lighting, directional signals, school flashers.

Category D – Water Control Facilities: storm detention pond repair

Category E – Public Grounds, Buildings & Equipment: building roof damage repair, building flooding, phone system flood damage, lawn mower, vehicle, truck, bus, engine equipment damage, radio communications equipment repair,

Category F – Public Utilities: electrical transmission & distribution repair, water line repair, sewage lift station repair, storm water/sewer pipe repair, waterline protection system, telecommunications system repair

Category G – Parks, Recreational, and Other: park, trail, cemetery, playgrounds, ball fields, marina, dock, mooring, etc.

CREEK SYSTEM (NORTH)

1. Forbes Creek - NE & 108th AVE NE - [7934/7935](#)
2. NE 125th PL & 95th PL NE (open ditch to culvert) - [4512](#)
3. 9450 NE 125th PL (open ditch to culvert) BBQ Pit - [4604](#)
4. 94th AVE NE & NE 126th PL Twin trash racks - [5510/5522](#)
5. NE 128th & 100 AVE NE - Juanita Crk - winter - [5510/5522](#)
6. NE 129th & 100th AVE NE - Juanita Crk - winter - [5780](#)
7. NE 131st & Totem Lake Blvd. - [10394](#)
8. NE 90th BTW 126th AVE NE & 128th AVE NE - [13010](#)
9. NE 94th Way - 12605 - Creek Inlet Rack - [12611](#)
10. 126th AVE NE & NE 95th ST - [12507](#)
11. NE 97th & 1 BIK EAST of SLATER - [1112](#)
12. NE 100th & 1 blk East of SLATER - [11260](#)
13. Slater Ave NE & NE 101st - [11215](#)
14. Slater Ave NE & NE 104th ST. - [11502](#)
15. Slater Ave NE & NE 112 ST - Inlet - [11687](#)
16. 124th Ave NE & NE 111th West of 124th Ave - Open ditch [11800](#)
17. NE 101 & 124th Ave Fogarty's - [11980](#)

CREEK SYSTEM (SOUTH)

1. Behind post office - walking trail - [8558](#)
2. 212 - 10th St - Creek Inlet - [9095](#)
3. Kirkland Ave - 500 Block - [7573](#)
4. 6th St South - [8107](#)
5. 8th St South & Everest Field - [8515](#)
6. Cedar St - 200 Block - [9494/9492](#)
7. 1307 Kirkland Ave - Trash rack - B-hive - [9935](#)
8. Alexander & Slater - [9402/9403](#)
9. 205 Kirkland Way - [9424](#)
10. NE 67th & 113th AVE NE - Creek Inlet - [9526](#)
11. NE 68th & 11231 Creek Inlet - [9254](#)
12. NE 73rd & 116th AVE NE 2 - cb's - [10345/10282](#)
13. NE 58th ST & 106th Ave NE - Creek Inlet - [7648](#)
14. NE 60th ST & 106th AVE NE - Trash rack - [7354](#)
15. NE 52nd ST & RR Tracks - CBs - 2 - [6938/1243](#)
16. NE 43rd ST & 108th AVE NE - [8131](#)
17. Northup Way & Lake Washington Boulevard (Cochran Creek) - [6665/6667](#)
18. Lake Washington Boulevard & Lakeview DR - [6014](#)
19. Lakeview DR & NE 63rd ST. - [6062](#)
20. 1st ST South & 9th AVE - Winter - [5855](#)

City of Kirkland and WM Inclement Weather Management Plan 2019-2020



The City of Kirkland and Waste Management (WM) agree to implement this plan to reduce the impact of prolonged inclement weather events on their residential customers. The provisions of this plan will be implemented in the event weekly collection service to residential customers is interrupted for two consecutive weeks due to an inclement weather event. The enhancements provided in this plan will remain in place through the 2019-2020 inclement weather season. City staff and WM will review the plan annually. By mutual agreement, this plan may be changed during an inclement weather event to meet customer needs.

DAILY TIMELINE AND COMMUNICATION:

2:00 AM – 6:00 AM: Waste Management operations staff will survey road conditions to determine possible service impacts.

6:00 AM – 8:00 AM: Waste Management (Emily) will notify City staff (John) of any service impacts such as delays or cancellations.

By 9:00 AM: The Kirkland service alert page at www.wmnorthwest.com/kirkland will be updated with service information and media notices will be sent.

5:00 PM (or earlier): Waste Management (Emily) will provide the City with a recovery plan for customers that did not receive service. Customers not receiving service will be instructed to place out double loads of garbage, recycling, and yard waste on their next regular service day. Customers not receiving service will be notified of the recovery plan via automated out-dialer calls. The service alert webpage will be updated.

DROP-OFF SITE SERVICE PLAN

Garbage and recycling drop-off locations will be activated if residential customers experience a second consecutive service day without service due to an inclement weather event. Waste Management will coordinate with the City to place up to two attended garbage trucks and up to three attended recycling truck or roll-off containers at the Juanita Beach Park west parking lot at 9703 NE Juanita Drive and the Heritage Hall parking lot at 203 Market Street (maps attached). The goal is to have drop-off sites open to Kirkland residential customers between the hours of 7:00 am and 4:00 pm, depending upon weather conditions. The City will ensure that bathroom facilities are available at each location.

By 5 pm on the evening before of each second consecutive cancelled service day, WM will prepare and send an out-dial message to residents to promote the drop-off service location(s) and hours of operation. The same information will be placed on the www.wmnorthwest.com/kirkland website and its social media channels. City staff will promote will provide drop-off information to residents via its various media channels.

Contact Information				
Name	Role	Org/Title	Phone	Email
John MacGillivray	Primary Contact	Kirkland – Solid Waste Programs Supervisor	(425) 587-3804 (Office) (206) 861-4823 (Cell)	jmacgillivray@kirklandwa.gov
Emily Newcomer	Primary Contact	Waste Management – Public Sector Manager	(425) 457-6053 (Cell)	enewcome@wm.com
Jenna McInnis	Secondary Contact	Kirkland – Recycling Programs Coordinator	(425) 587-3814 (Office) (206) 947-0438 (Cell)	jmcinnis@kirklandwa.gov
Robin Freedman	Secondary Contact	Waste Management – Senior Public Sector Manager	(425) 623-5013	rfreedma@wm.com
Kellie Stickney	Communications Primary	Kirkland- Communications Programs Manager	(425) 587-3021	kstickney@kirklandwa.gov
Tracy Durnell	Communications Secondary	Kirkland – Education and Outreach Specialist	(425) 587-3863	tdurnell@kirklandwa.gov
Gary Chittim	Communications Secondary	Waste Management – Communications Manager	(425) 247-6940	gchittim@wm.com
Jeff McMahon	Operations Primary	Waste Management – Senior District Manager	(425) 471-5046	jcmcmaho@wm.com
Robert Eichhorn	Operations Primary	Waste Management – Senior Route Manager	(425) 531-2299	reichhor@wm.com
Mike Munko	Operations Secondary	Waste Management – Route Manager	(425) 236-6961	mmunko@wm.com

Garbage and Recycling Drop-off Sites

Juanita Beach Park – 9703 NE Juanita Drive



Heritage Hall – 203 Market Street



**CITY OF KIRKLAND****City Manager's Office**

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001

www.kirklandwa.gov**MEMORANDUM**

To: Kurt Triplett, City Manager

From: Mary Gardocki, Park Planning and Development Manager
Kyle Butler, Financial Planning Supervisor
Rod Steitzer, Public Works CIP Manager
Lynn Zwaagstra, Director of Parks and Community Services
Kathy Brown, Director of Public Works

Date: November 6, 2019

Subject: 132nd Square Park Scope and Funding Options

RECOMMENDATION:

That City Council reviews options for funding elements of Phase 2 of the 132nd Square Park Master Plan and provides direction on whether to include some or all of Phase 2 as part of the initial Phase 1 project. Council recommendations will be included in the final adoption of the 2019-2024 CIP at the December 10 Council meeting.

BACKGROUND DISCUSSION:

At their meeting on October 15, 2019, the City Council adopted Resolution R-5393, Adopting a [Master Plan for 132nd Square Park](#), initially proposed to be implemented in two phases.

The resolution includes the following key components:

- Approves the proposed Master Plan for 132nd Square Park.
- Provides direction to return to Council with funding options for Phase 2 elements at the November 6 Council meeting;
- Provides direction to include a Synthetic Turf Strategic Plan in the 2019 CIP update; and
- Provides direction to update the Athletic Field Use Policy to ensure unscheduled, unprogrammed time on all athletic fields, including 132nd Square Park.

Phase 1 components include a synthetic turf field, fencing, lighting and an ADA accessible path to access the field with a total cost estimate of \$3,589,000 and an estimated cost savings of \$1,082,835 from the coordinated effort with the stormwater retrofit project for an estimated net cost of \$2,506,165. Total project budget for design development and construction of the first phase of improvements has been approved in the Parks' CIP for \$2,184,000. Funding is derived from REET, Kirkland Parks Levy, Park Impact Fees and Reserves. An additional \$1,000,000 of park impact fees has been proposed in the 2019-24 CIP update by the City Manager's Office, which would result in a new budget of \$3,184,000.

Additional improvements identified in Phase 2 include expanded parking, new lighting, a new restroom building, a relocated play hill, an expanded playground, new picnic shelters and various trail and landscaping components. The project cost estimate for construction only to

complete Phase 2 of the master plan is \$2,385,300 in addition to Phase I. Adding these project elements does increase other project costs including design, permitting, inspection, in-house and contingency costs. In total, to completing the master plan in its entirety (both Phase 1 and Phase 2), the total cost estimate is \$6,754,944, less savings of \$1,082,835 for the previously mentioned coordinated effort with the surface water project results in a net project cost estimate of \$5,672,109. From the resolution and council direction, staff is providing *complete* costs for both of these options plus a middle-road option that incorporates limited scope additions of parking and restroom into Phase 1. The options are as follows:

Option A: Phase 1 Construction (Status Quo)

Design	200,000	6.8%
Permit/ROW	15,000	0.5%
Inspection	60,000	2.0%
PE subtotal	275,000	
Inhouse	80,000	2.7%
ROW		
Equip/Software		
CN estimate from MP	2,940,000	
Contingency	294,000	10.0%
Efficiencies- Civil Improvements	(657,780)	
Efficiencies - Landscape	(252,686)	
Efficiencies - Contractor Overhead	(172,369)	
Total	2,506,165	
Original Park Funding	3,184,000	
Variance	677,835	



Option B1: Phase 1 + Parking and Restroom Construction

Design	320,000	8.3%
Permit/ROW	97,114	2.5%
Inspection	100,000	2.6%
PE subtotal	517,114	
Inhouse	130,000	3.4%
ROW		
Equip/Software		
CN estimate from MP revised	3,845,664	
Contingency	384,566	10.0%
Efficiencies- Civil Improvements	(657,780)	
Efficiencies - Landscape	(252,686)	
Efficiencies - Contractor Overhead	(172,369)	
Total	3,794,509	
Original Park Funding	3,184,000	
Variance	(610,509)	



**Option B2: Add 2" grind/overlay of entire parking lot:
B1 plus \$67,000**

Individual amenities could be added to either Option B variant. The general construction cost estimates are as follows:

- Play Hill = \$250,000
- Picnic Shelters (2) = \$220,000
- Expanded playground = \$300,000
- Civil engineering/site impact/design/permitting allowance = \$500,000

Option C: Phase 1 + Phase 2 Construction

Design	460,000	8.6%
Permit/ROW	112,114	2.1%
Inspection	165,000	3.1%
PE subtotal	737,114	
Inhouse	160,000	3.0%
ROW		
Equip/Software		
CN estimate from MP	5,325,300	
Contingency	532,530	10%
Efficiencies- Civil Improvements	(657,780)	
Efficiencies - Landscape	(252,686)	
Efficiencies - Contractor Overhead	(172,369)	
Total	5,672,109	
Original Park Funding	3,184,000	
Variance	(2,488,109)	



“Phase 2” includes expanded parking, new restroom, the relocated play hill, an expanded playground, new picnic shelters and various trail and landscaping components.

FUNDING OPTIONS:

The proposed 132nd Square Park improvements represent a significant investment in the City of Kirkland’s Park system, with 50% of the project adding additional user capacity, therefore Park Impact Fees and REET 1 funds are the primary funding sources that were identified as potential sources for enhancing the project scope beyond Option A (Phase I). It is worth noting that under all scenarios this project takes advantage of design, construction, and contractor overhead efficiencies due to the Surface Water project also set to be constructed on the same site.

Based on the existing funding plan and consultant cost estimates the options have the following funding surplus or shortfall:

	132nd Square Park - PKC134		
	Existing Funding	Project Cost	Surplus/(Shortfall)
Option A: Phase I	\$ 3,184,000	\$ 2,506,165	\$ 677,835
Option B1	\$ 3,184,000	\$ 3,794,509	\$ (610,509)
Option B2	\$ 3,184,000	\$ 3,861,509	\$ (677,509)
Option C	\$ 3,184,000	\$ 5,672,109	\$ (2,488,109)

Option A:

- Fully funded under the existing proposed 2019-24 CIP update, with a projected project savings estimated to be \$677,835. No further action is needed to fund this project scope.
- Rebalancing - If Option A is selected, financial planning staff proposes that following final bids the project's impact fee funding be rebalanced to match 50% of project costs to be in line with estimated capacity related improvements.

Option B1 (Phase 1 + Parking and Restroom Construction):

- Due to park impact fee constraints related to the project's 50% capacity enhancement, Option B1 would require additional REET 1 funding and a reduction in park impact fee contributions.
- Staff has identified that the PKC1333000 Neighborhood Park Land Acquisition has \$803,000 in proposed REET 1 funding, however the project is 100% capacity related and eligible for 100% park impact fee funding.
 - This project's REET 1 funding would be transferred to 132nd Square Park and replaced with a use of park impact fee available balance of \$803,000.
- 132nd Square Park would rebalance to send \$190,000 in park impact fee funding back to the available balance.
- *This funding plan results in 48% impact fee funding for the project.*

Option B2 (Phase 1 + Parking and Restroom Construction + Parking Lot Overlay):

- Funding can be accomplished in the same manner as Option B1, however \$125,000 in park impact fees would be returned to the available balance
- *This funding plan results in 49% impact fee funding for the project.*

Note: Additional amenities can be added to Option B1 or B2 and can be funded by using a 50/50 split of park Impact fee and REET 1 available balances for each item added to the scope. Available reserves are sufficient to cover the bulleted items identified on page 2 if selected by Council.

Option C (Phase 1 + Phase 2 Construction):

- In addition to the steps described in Option B, this scope would require more REET 1 and Impact Fee contributions.
- Staff has identified that the PKC13902 Totem Lake Park Development has \$509,200 in proposed REET 1 funding, however the project is 100% capacity related and eligible for 100% park impact fee funding.
 - This project's REET 1 funding would be transferred to 132nd Square Park and replaced with a use of park impact fee available balance of \$509,200.
- After these rebalancing steps for PKC1333 and PKC13902 the park impact fee available balance is estimated to be about \$693,000 – to maintain capacity investments near 50% of project cost, staff recommends transferring \$690,000 of this balance to 132nd Square Park.
- Finally, an additional use of \$570,000 in REET 1 Reserves would be needed to fully fund the project.
- *This funding plan results in 48% impact fee funding for the project.*

Further financial details on the options above are available in the Funding Analysis section on the final page.

The REET 1 & Park Impact Fee rebalancing for other impact fee eligible projects as described in options above are detailed in the table below:

Potential Rebalancing of other impact fee eligible projects

	REET 1 rebalance to 132 nd Sq Park	Park Impact Fee Uses of available balance	Options
PKC 1333 - Neighborhood Acq.	\$ (803,000)	\$ 803,000	B1, B2, C
PKC 13902 - Totem Lake Park	\$ (509,200)	\$ 509,200	C

OUTREACH FOR PHASE 2:

As requested by the Evergreen Hill Neighborhood Association, additional outreach will take place to engage the community on refining Phase 2 development and be scheduled once the scope of the initial project is confirmed. It is important to note that the community's input over the past 6 months has already shaped the current Phase 2 design in the approved master plan. Feedback was obtained through the following methods.

- Evergreen Hill Neighborhood Association meeting (~30 attendees)
- Community Open House (~40 attendees)
- Picnic in the Park event (~80 attendees)
- Community Open House (~55 attendees)
- Online survey
- Public Hearing with Park Board

This feedback led to the design features of a relocated play hill, additional picnic shelters, preserving the existing picnic shelter, maintaining swings, enhanced walking trails, and expanded playground equipment.

NEXT STEPS:

To remain on schedule for design and construction of the combined stormwater and park project, staff needs direction on which additional park features to include in the current design and construction project. Council direction will be incorporated into the construction drawings, and then funding decisions will be included in the 2019 – 2024 Capital Improvement Program (CIP) Update that will come before the Council on December 10.

The resolution included direction to fund a Synthetic Turf Strategic Plan, which will be included in the 2019 CIP update also presented to the Council on November 6th. The update to the Athletic Field Use Policy to ensure unscheduled, unprogrammed time throughout the park system, including at 132nd Square Park will occur in 2020.

Funding Analysis

Algebra Key:	A	B	C = A - B	D	E	F	G	H = A + D + E + F + G	X = H - B	Y = Z/A	Z
	Existing Funding	Project Cost	Surplus/ (Shortfall)	REET 1 from PKC 1333	REET 1 from PKC13902	Impact fee changes (132nd)	Additional use of REET 1	New Funding total	New Surplus/ (Shortfall)	% Park Impact Fees	Total Park Impact Fee Funding
Option A: Phase I	\$ 3,184,000	\$ 2,506,165	\$ 677,835	\$ -		\$ (675,000)	\$ -	\$ 2,509,000	\$ 2,835	42%	\$ 1,351,000
Option B1	\$ 3,184,000	\$ 3,794,509	\$ (610,509)	\$ 803,000	\$ -	\$ (190,000)	\$ -	\$ 3,797,000	\$ 2,491	48%	\$ 1,836,000
Option B2	\$ 3,184,000	\$ 3,861,509	\$ (677,509)	\$ 803,000	\$ -	\$ (125,000)	\$ -	\$ 3,862,000	\$ 491	49%	\$ 1,901,000
Option C	\$ 3,184,000	\$ 5,672,109	\$ (2,488,109)	\$ 803,000	\$ 509,200	\$ 690,000	\$ 570,000	\$ 5,247,000	\$ (425,109)	48%	\$ 2,716,000



CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425.587.3600 - www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tony Leavitt, Senior Planner
Adam Weinstein, Planning & Building Director

Date: October 22, 2019

Subject: Northwest University Master Plan, ZON16-02063

QUASI-JUDICIAL

RECOMMENDATION

Consider the Hearing Examiner recommendation for the proposed Northwest University Master Plan application and take one of the following actions:

1. Direct staff to return to the November 19 Council meeting with a final ordinance to either:
 - Grant the application as recommended by the Hearing Examiner;
 - Modify and grant the application; or
 - Deny the application.
2. Alternatively, direct that the application be considered at a reopening of the hearing before the Hearing Examiner and specify the issues to be considered at the hearing.

In lieu of the above, the City Council may, by a vote of at least five members, suspend the rule to vote on the matter at the next meeting and vote on the application at this meeting. A Resolution reflecting the recommendation of the Hearing Examiner is enclosed.

RULES FOR CITY COUNCIL CONSIDERATION

The City Council shall consider the applications based on the record before the Hearing Examiner and the Houghton Community Council and the recommendation of the Hearing Examiner. Process IIB does not provide for testimony and oral arguments. However, the City Council in its discretion may ask questions of the applicant and City staff regarding facts in the record and may request oral argument on legal issues.

This application is subject to the disapproval of the Houghton Community Council. The decision of the City Council will not be effective unless and until it is affirmed by the Community Council or the Community Council does not disapprove of the decision within 60 days.

BACKGROUND DISCUSSION

Original Proposal

Northwest University (represented by Eric Drivdahl of Gelotte Hommas Architects) requests approval of a Process IIB zoning permit for an update to Northwest University's previous Master Plan. The master plan update would guide development on the campus for the next 20 years.

The applicant is proposing the following elements as part of the new Master Plan, which represents substantial revisions to the existing Master Plan:

- a. Proposed buildings, additions, and campus improvements totaling 364,910 gross square feet (GSF) of net new construction (see Enclosure 1 for a campus development map). While the improvements are characterized as 'phases', the order in which improvements are actually undertaken may vary from the proposed order and dates presented in the Master Plan submittal.
 - (1) Phase 1: New 6-Court Indoor Tennis Center, including new parking garage below.
 - (2) Phase 2: New Gymnasium Pavilion replacing the existing Pavilion, including new parking garage below.
 - (3) Phase 3: New Welcome Center replacing the existing Pecota Center building, including new parking garage below.
 - (4) Phase 4: New 300 bed Residence Hall.
 - (5) Phase 5: Athletic Field Improvements including new AstroTurf and lighting with New Field House and bleachers at the athletic fields.
 - (6) Phase 6: Additions to the Chapel.
 - (7) Phase 7: New Fitness Center, including new parking garage below.
 - (8) Phase 8a: Ness Academic Center South Section, replacing Fee Hall.
 - (9) Phase 8b: Ness Academic Center Central Section, replacing Williams & Rice Hall.
 - (10) Phase 8c: Ness Academic Center North Section, replacing Bronson Hall.
- b. New shared use of the athletic fields allowing for public access to this currently restricted campus amenity. The public field use would be prioritized based on a tiered system with City sponsored youth leagues and nonprofits having priority. Public use of the fields would be limited to 8 hours per day and would be required to end by 9pm. During the public hearing process, it was suggested by the applicant that the scheduling of the fields be handled by the City of Kirkland Parks Department.
- c. Reduced setback and planting buffer requirements to 10 feet along shared property lines with the Puget Sound Adventist Academy located at the southwest corner of the University. All other setback and planting buffer requirements remain unchanged at 30 feet.
- d. Alteration of campus access onto NE 53rd Street by realigning 111th Way NE to

the east to accommodate the proposed Tennis Center.

- e. Modifications to the following height limits above Average Building Elevation (ABE):
 - (1) Increased height limit to 60 feet above ABE for the Residence Hall, a 20-foot increase to the current height limit of 40 feet ABE for structures located greater than 100' feet from the PLA-1 boundary.
 - (2) Increased height limit to 40 feet above ABE for the Tennis Center building, a 10-foot increase to the current height limit of 30 feet ABE for structures located less than 100 feet from the PLA-1 boundary.
 - (3) Increased height limit to 40 feet above ABE for the Gymnasium Pavilion, a 10-foot increase to the current height limit of 30 feet ABE for structures located less than 100 feet from the PLA-1 boundary.
 - (4) The height limits in all other areas of campus would remain at 30 feet above ABE within 100 feet of the PLA 1 boundary and 40 feet above ABE for all other areas.
- f. Revision to proposed traffic patterns and traffic plan.
- g. Provide a net gain of 178 parking stalls through development of parking garages under proposed new structures and surface parking lots.
- h. Clarification that the 1,200 Full Time Enrollees (FTE) encompasses only the maximum number of on-campus undergraduate resident students, allowing for total enrollment growth that excludes students and programs not located within the PLA-1 zone, online programs, off-campus church partnership programs, commuter students and evening and weekend programs. With this clarification, the overall enrollment on campus, including undergraduates, graduate, evening and weekend degree and commuter students, would be 2,000 FTE's by the end of the 20-year plan.
- i. Adoption of the updated Master Plan that includes a 20-year approval period.

Revised Proposal

During the public hearing process, the applicant noted that they would be amenable to converting the Phase 1 Tennis Center into an Academic Building if the Hearing Examiner and HCC would recommend that change. The Hearing Examiner and HCC endorsed the suggested change with the following revised development standards:

- The academic building shall be limited to 30 feet above Finished Grade or Existing Grade (whichever is lower) as measured from the center point of the West Facade for a distance of at least 75 feet East of the Puget Sound Adventist Academy (PSAA) property line. East of this line, the standard and existing building height limits would

be applied - specifically 30 feet ABE within 100 feet of the campus boundary and 40 feet ABE for portions exceeding 100 feet from the campus boundary.

- The proposed 50-foot buffer along NE 53rd Street and rain garden proposed for the Tennis Center shall be retained with the Academic Building.

Additionally, the applicant proposed the following mitigations to address traffic impact and public field use concerns:

- Cut-Through Traffic Evaluation and Mitigation

As part of the building permit submittal for any building permit application that exceeds 5,000 square feet or prior to any public use of sports fields, the applicant shall conduct a cut-through traffic analysis for Public Works to review. Prior to study, the University's transportation consultant shall provide the scope of analysis and methodology to the City Transportation Engineer to review and approve. The cut-through study shall provide data to identify the Northwest University cut-through traffic as well as non-university cut-through traffic and speed data for cut-through routes. If cut-through traffic impacts are identified and traffic calming is determined to be necessary by the City, Northwest University shall be required to pay a mitigation fee to the City's Neighborhood Traffic Control Program that is proportionate to its impact, not to exceed \$15,000 per Master Plan project over 5,000 square feet for the life of the Master Plan and \$30,000 for public use of the sports field. The mitigation fee amounts shall be adjusted for yearly inflation using the Consumer Price Index (CPI) for the Seattle-Tacoma-Bellevue area starting in October of 2020, adjusted annually and run through the expiration of the Master Plan (December 31, 2039).

- Field Use Coordinators

Northwest University will hire "Field Use Coordinators" whose responsibilities will include ensuring that the requirements of the Field Use agreement are enforced (including the morning and evening timing restrictions) and logging and responding to complaints of any kind. The University's Athletic Department will be required to submit twice yearly reports to the City summarizing all complaints received and how the complaint was handled. Additional mitigation measures could be considered by the City if substantiated by the reports.

Public Comments

The initial public comment period ran from October 7, 2016 until November 6, 2016. The Planning & Building Department received a total of 108 emails and letters during this comment period. 80 of the letters were in support of the application and 28 letter raised concerns about the application. Numerous issues were raised in the comments, with the most common including:

- Traffic impacts associated with the proposed Master Plan projects, including impacts to 108th Avenue NE, NE 53rd Street and neighboring residential streets.

- Concerns about the proposed Tennis Center. Concerns included the proposed use, access to the building from NE 53rd Street, tree retention in adjoining buffer, height of the structure and massing of the proposed building.
- Concerns about the use of campus facilities (including the athletic fields and campus buildings) by outside organizations. Issues raised included traffic impacts, noise impacts and security issues.
- Potential offsite parking impacts on neighboring streets.

State Environmental Policy Act (SEPA) Determination

The City issued a SEPA Mitigated Determination of Nonsignificance on March 16, 2019 (see Enclosure 2, Appendix 1 for a list of mitigations). A timely appeal of the SEPA Determination was filed on March 26 by neighbors of the campus. The appeal was heard by the City's Hearing Examiner on May 14, June 11 and August 27 and a decision on the appeal was issued by the Hearing Examiner on September 19. The Hearing Examiner upheld the City's SEPA Determination and dismissed the appeal (see Enclosure 2 for the decision and exhibits).

SEPA Traffic Conditions

The City's SEPA Mitigated Determination of Nonsignificance required five mitigations related to the 6th Street Corridor Study (see Enclosure 5 for a map). The required mitigations are:

1. In lieu of constructing half-street improvements along the 108th Avenue NE frontage to include a dedicated bus lane as described in the Phase II Transit Queue Jump improvement of the 108th corridor project (PT 0006), the City will require a width of up to 12-feet of right-of-way (ROW) dedication along the 108th Avenue NE University properties.
2. The University shall sell a width of up to 12-feet of frontage at 6710 108th Avenue NE for the construction of the Phase I Transit Queue Jump improvement of the 108th corridor project.
3. The University shall contribute a proportional share to the intersection improvement of Phase I Transit Queue Jump improvement of the 108th corridor project not-to-exceed \$266,306 or 14 percent of the total project cost (whichever is lower).
4. The University shall contribute a proportional share to the intersection improvement of Phase II Transit Queue Jump improvement of the 108th corridor project not-to-exceed \$175,606 or 8 percent of the total project cost (whichever is lower).

5. The University shall contribute a proportional share to the intersection improvement of the NE 68th Street Intersection Improvements/Access Management not-to-exceed \$241,214 or 14 percent of the total project cost (whichever is lower).

Public Hearing

Prior to the hearing, Staff prepared an Advisory Report that was forwarded to all parties of record, the Hearing Examiner and the Houghton Community Council (see Enclosure 4, Exhibit A). The report recommended approval of the application subject to conditions.

The Hearing Examiner and the Houghton Community Council held joint open record public hearings on May 14, June 11 and August 15, 2019. City Staff, the applicants and representatives, and numerous individuals (including neighbors, local residents, NU students, and NU staff) testified during the hearing. Testimony at the hearing addressed many of the items that were brought up during the initial public comment period.

Houghton Community Council Recommendation

On August 15, 2019 the Houghton Community Council deliberated and drafted a recommendation to the Hearing Examiner (see Enclosure 3). The Houghton Community Council concurred with the staff analysis and the recommendation of approval and recommended additional conditions to support conversion of the Tennis Center to an Academic Building, requiring cut through traffic analyses for all development phases, establishing field use requirements (including limitations on public use and field lighting), and requiring a construction coordinator for all building projects. The scheduling of the fields by the City's Parks Department would be subject to an agreement and at the discretion of the City.

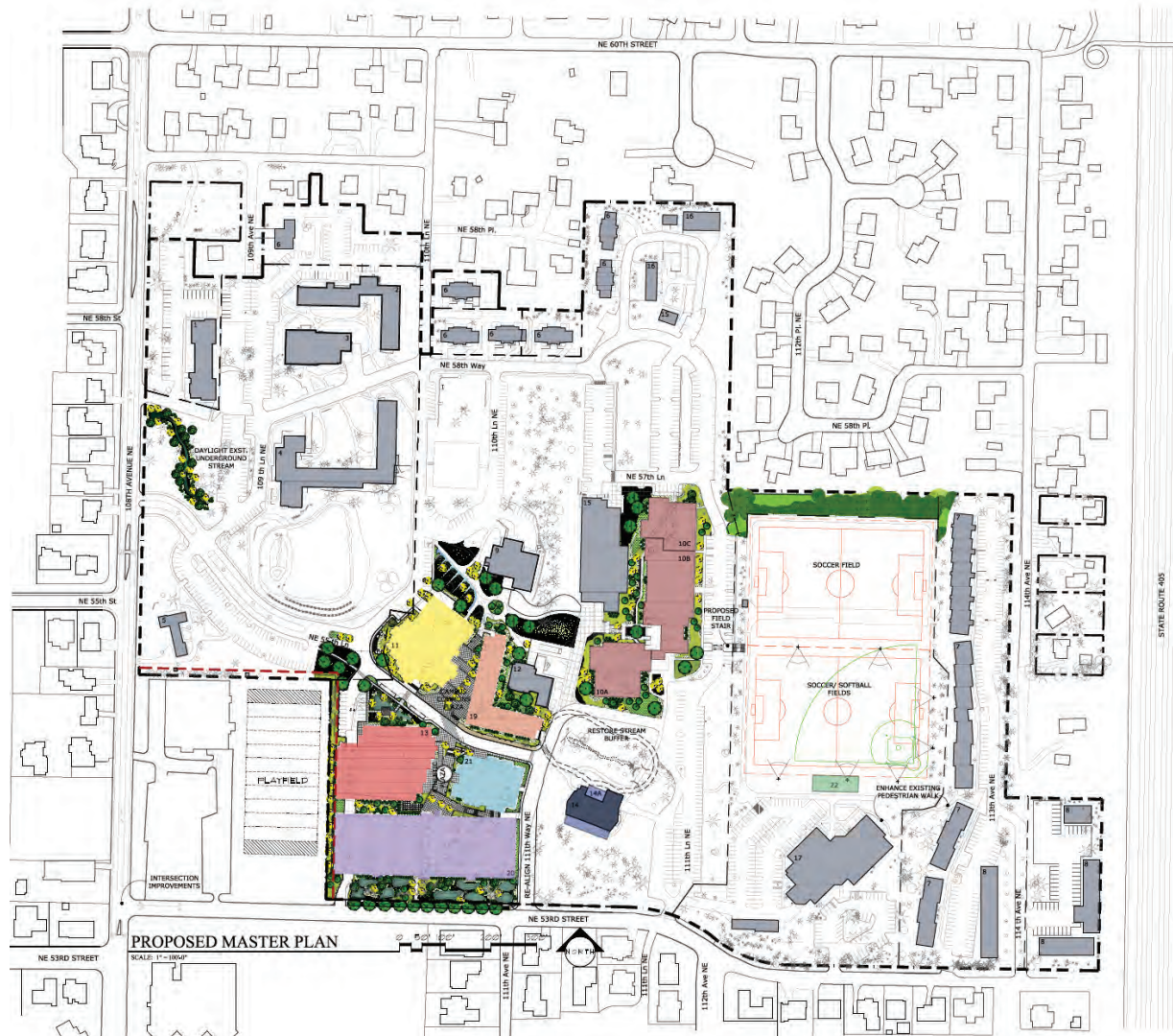
Hearing Examiner Recommendation

On September 19, 2019 the Hearing Examiner recommended that the City Council approve the application subject to the conditions outlined in her report (see Enclosure 4). The Hearing Examiner agreed with the Houghton Community Council's recommended conditions.

ENCLOSURES:

1. Campus Development Map
2. Hearing Examiner SEPA Decision
3. Houghton Community Council Recommendation
4. Hearing Examiner Recommendation
5. SEPA Mitigation Map

Figure 12- Proposed Master Plan (Updated)



LEGEND

EXISTING STRUCTURES

- 1 DAVIS ADMINISTRATION BLDG.
- 2 GRAY/BEATTY RESIDENCE HALL
- 3 CAFETERIA/STUDENT LOUNGE
- 4 CROWDER/GUY/RESIDENCE HALL
- 5 GREELEY CENTER
- 6 DUPLEXES
- 7 FRAS APARTMENTS
- 8 STUDENT APARTMENTS
- 9 D.W. HURST LIBRARY
- 10 NISS/ WILLIAMS/DICKOV/FREE HALL
- 11 PICOTA STUDENT UNION BUILDING
- 12 MOLLARD HALL
- 13 GYMNASIUM/PAVILION
- 14 BUTTERFIELD CHAPEL
- 15 GREEN HOUSE
- 16 MAINTENANCE BUILDINGS
- 17 BARTON BUILDING
- 18 ARGUE HEALTH SCIENCES CENTER
- 19 NW COLLEGE PROPERTY OUTSIDE PLA-1 ZONE
- 20 CAMPUS PLA-1 ZONE BOUNDARY

PROPOSED

- 10A NISS PHASE ONE
- 10B NISS PHASE TWO
- 10C NISS PHASE THREE
- 11A WELCOME CENTER (REPLACES PICOTA)
- 11B PAVILION GYMNASIUM REPLACEMENT
- 14A CHAPEL ADDITIONS
- 15A RESIDENCE HALL
- 16A Academic Center
- 17A FITNESS CENTER
- 22A FIELD HOUSE
- 22B PROPOSED 10' BUFFER AREA

PROPOSED MASTER PLAN
 SCALE: 1" = 100'-0"



Northwest UNIVERSITY

Gelotte Hommas
 THE ART OF ARCHITECTURE
 3005 112th Ave. NE, Suite 100
 425-828-3081 T 425-822-2152 F
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Northwest University
 Master Plan Update

NO.	DATE	REVISION
1	2/10/17	PRELIM REV

DATE: 02/10/2017
 JOB NUMBER: 1423
 P/N: 16
 FILE: MASTER PLAN 9-15-15.dwg

PROPOSED MASTER PLAN

A1.1

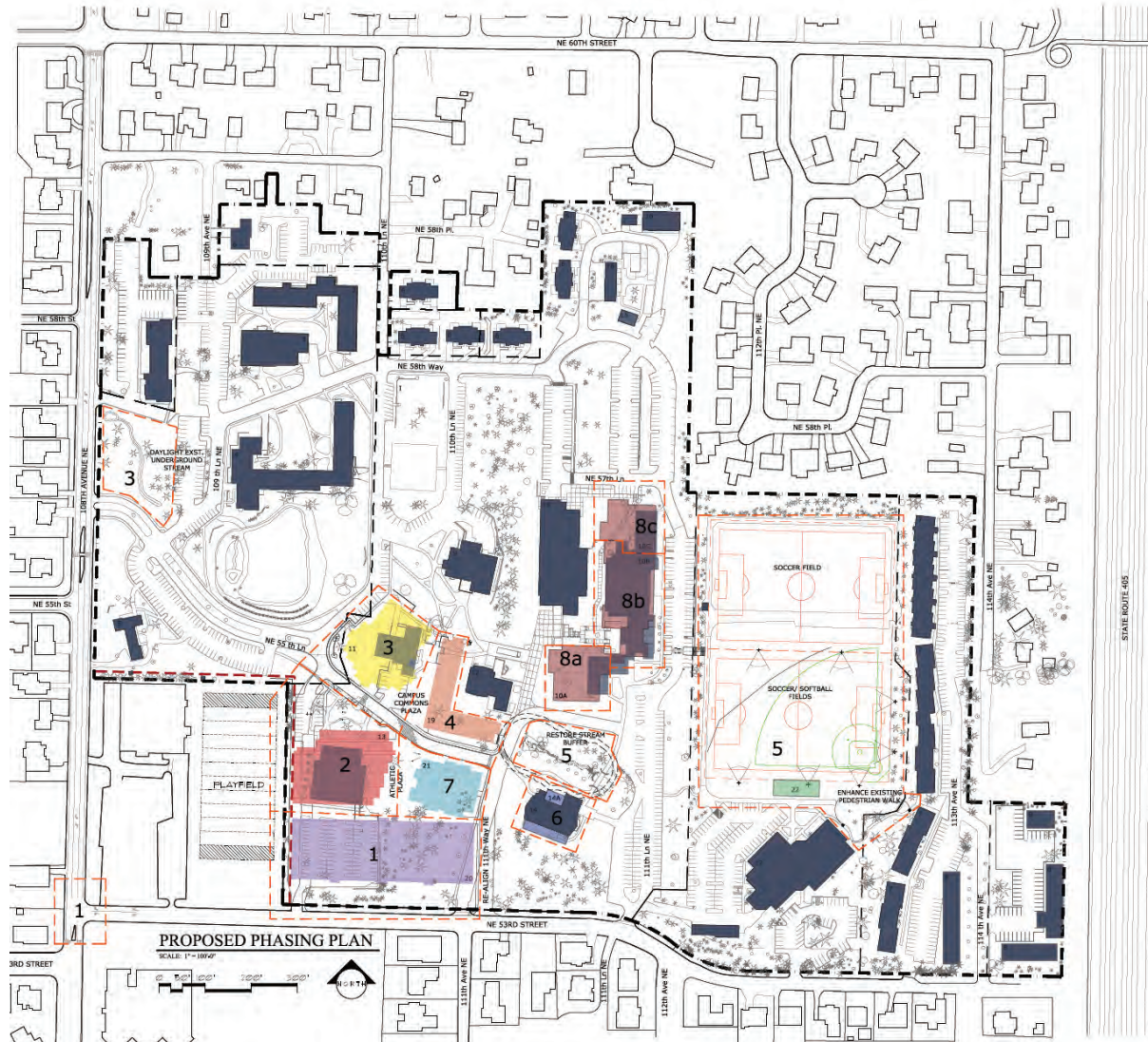
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Table 1 - Master Plan Proposed Building Inventory (Updated)

Bldg. #	Building	Gross Square Feet				Units			Parking Stalls			IBC Use	Constr. Type	Approx. or Estimated Year Built
		Existing	Add'l	Proposed Under Bldg. Parking	Total	Existing	Add'l	Total	Existing	Add'l	Total			
1	Davis	16,800	0		16,800			0	45		45	B	VB	1970's
2	Gray/Beatty	44,400	0		44,400	105		105	188		188	R-2	VA	1970's
3	Caf (DiningHall)	11,500	0		11,500			0				A-2	VB	1970's
4	Crowder, Guy, Perks	68,400	0		68,400	159		159				R-2	VA	1962, 1978
5	Greely Center	2,930	0		2,930			0	74		74	B	VB	1960's
6	Family Residence Duplexes	28,077	0		28,077	14		14	28		28	R-3	VB	2000
7	FIRS Apartments	87,869	0		87,869	78		78	135		135	R-2	VA	1970's
8	Student Apartments	24,960	0		24,960	32		32	55		55	R-2	VB	2000
9	Library	28,200	0		28,200			0	66		66	A-3	VA	1977
10	Ness Academic Center	33,400	-33,400		0			0	59		59	B	removed	1970's
11	Pecota Center	7,400	-7,400		0			0	32	-32	0	B	removed	1980's
12	Millard Hall	15,000	0		15,000			0	26		26	B	VA	1970's
13	Pavilion	23,460	-23,460		0			0	90	-90	0	A-4	removed	1970's
14	Chapel/Classrooms Music	14,334	3,000		17,334			0	88		88	A-3	VB	2019 to 2020
15	Green House	927	0		927			0	0		0	U	VB	2002
16	Maintenance / Shop Bldgs	10,639	0		10,639			0	15		15	B	VB	1980's
17	Barton Admin.	34,704	0		34,704			0	138		138	B	IIB	1978

													Sprinklers	
18	Argue HSC	45,436	0		45,436			0	127		127	B	IIB Sprinklers	2007
10	Ness Replacement	0	70,910	0	70,910			0	0	0	0	A-3	VA Sprinklers	2031 to 2037
11	Welcome Center	0	43,320	18,600	61,920			0	0	70	70	A-2	IV Sprinklers	2021 to 2024
13	Pavilion/Gymnasium	0	37,950	19,970	57,920			0	0	95	95	A-4	IIA Sprinklers	2019 to 2022
19	Residence Hall	0	85,060	0	85,060		172	172	0	0	0	R-2	IIB	2021 to 2024
20	Tennis Center Academic Center	0	63,660	28,144	91,804				0	79	79	B	IIIA Sprinklers	2017 to 2020
21	Fitness Center	0	21,390	10,870	32,260			0	0	56	56	B	VA	2029 to 2032
22	Field House	0	3,500	0	3,500			0	0	0	0	B	VB	2022 to 2024
Totals		498,436	264,530	77,584	840,550	388	172	560	1,166	178	1,344			

Figure 13 - Proposed Phasing (Updated)



LEGEND

- EXISTING STRUCTURES**
- 1 DAVIS ADMINISTRATION BLDG.
 - 2 GRAY/BATTY RESIDENCE HALL
 - 3 CAFETERIA/STUDENT LOUNGE
 - 4 CROWDER/GU/RESIDENCE HALL
 - 5 GIBBEY CENTER
 - 6 DORMS
 - 7 FIRS APARTMENTS
 - 8 STUDENT APARTMENTS
 - 9 D.V. HURST LIBRARY
 - 10 NISS/WILLIAMS/ROCKEFYER HALL
 - 11 PECOTA STUDENT UNION BUILDINGS
 - 12 MILLARD HALL
 - 13 GYMNASIUM/PAVILION
 - 14 BUTTERFIELD CHAPEL
 - 15 GREEN HOUSE
 - 16 MAINTENANCE BUILDINGS
 - 17 BARTON BUILDING
 - 18 ARGUE HEALTH SCIENCES CENTER
- NW COLLEGE PROPERTY OUTSIDE PL-1 ZONE
 - - - - - CAMPUS PL-1 ZONE BOUNDARY

- PROPOSED**
- 1b NISS PHASE ONE
 - 1c NISS PHASE TWO
 - 2b NISS PHASE THREE
 - 3a WELCOME CENTER (REPLACES PECOTA)
 - 3b PAVILION/ GYMNASIUM REPLACEMENT
 - 4a CHAPEL ADDITIONS
 - 5a RESIDENCE HALL
 - 6a ~~NISS CENTER~~ Academic Center
 - 7a FITNESS CENTER
 - 8a FIELD HOUSE
 - 8b PROPOSED 10' BUFFER AREA

PROPOSED

PHASE	DATE	NOTE
1	2017-2020	NOTE: WHILE THE IMPROVEMENTS ARE CHARACTERIZED AS 'PHASES', THE ORDER IN WHICH IMPROVEMENTS ARE ACTUALLY UNDERTAKEN MAY VARY FROM THE PROPOSED ORDER AND DATES PRESENTED IN THE MASTER PLAN SUBMITTAL.
2	2019-2022	
3	2019-2020	
4	2021-2024	
5	2021-2024	
6	2022-2024	
7	2029-2032	
8a	2031-2034	
8b	2033-2036	
8c	2035-2037	

DESCRIPTION

- 1 Tennis Center & Parking, Landscape & buffer, Frontage improvements NE 53rd St., Traffic control @ 108th & 53rd intersection per traffic study
- 2 Replace Existing Gymnasium w/ New Gymnasium, Parking, Landscape, Plaza
- 3 Replace Existing Building w/ New Welcome Center, Parking, Landscape, Daylight existing stream near 108th Ave entry
- 4 Residence Hall, Plaza, Landscape
- 5 Replace Existing Fields w/ 2 New Astro Turf soccer fields, permitter Landscape, field Lighting, field House, restoration of stream buffer adjacent to Chapel, enhance existing walk from Firs student housing past Barton building.
- 6 Additions to existing Chapel
- 7 Fitness Center & Parking, Landscape
- 8a Replace Existing w/ New Theater Building, Landscape
- 8b Replace Existing w/ New Academic Building, Landscape
- 8c Replace Existing w/ New Academic Building, Landscape


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Northwest University
 Master Plan Update

NO.	DATE	REVISION
1	2/10/17	PERMIT REVS

DATE: 02/10/2017
 JOB NUMBER: 1423
 PH: TH
 A:\R\Proposed Phasing Plan.dwg

PROPOSED PHASING PLAN
A1.2

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CITY OF KIRKLAND HEARING EXAMINER**Northwest University Master Plan
SEPA Appeal
(SEP16-02066, related to ZON16-02063)****FINDINGS, CONCLUSIONS OF LAW, AND DECISION****September 19, 2019****I. FINDINGS OF FACT**

1. Background. Northwest University operates college and graduate degree programs on a 55 acre campus within the City of Kirkland. The site is zoned PLA-1, with an Institutional Comprehensive Plan designation, which authorizes the use, subject to a Master Plan. As directed by code, the University requested an updated Master Plan to govern the next twenty years of growth. After reviewing the State Environmental Policy Act, Ch. 43.21C RCW, Checklist and related documents detailing project impacts, the City issued a Mitigated Determination of Non-Significance, which was appealed. This Decision addresses that appeal.

2. Master Plan, Summary. The University maintains 31 buildings on 55 acres. Over the next twenty years, the school plans to add 364,910 square feet building improvements and parking,¹ and to serve a full time equivalent of 1,200 undergraduate residential students, or about 2,000 total students by 2037.² These projects are planned over about 13.2 acres of the site:

- Replacement of Gymnasium Pavilion, with added Parking Garage;
- Replacement of Welcome Center, with added Parking Garage;
- Replacement of Ness Academic Center;
- Residence Hall (300 beds), with 60' height limits;
- Chapel Additions;
- Fitness Center/Parking Garage;
- Athletic Field Improvements (AstroTurf to Replace Grass; Lighting, South Field Only; Field House and Bleachers); and,
- Six Court Indoor Tennis Center (with 50' foot height limits) and Parking Garage.

The Applicant has since accepted recommended conditions from the Houghton Community Council replacing the tennis center with an academic building and further regulating athletic field use.

3. Review Process. Master Plan review has been procedurally complex. Regarding the Master Plan, the Houghton Community Council holds a public hearing with the Hearing Examiner. The Houghton Community Council issues a recommendation, which the Examiner

¹ City Exhibit 22 (Staff Report, May 7), TIA, pg. 5 (260,530 square feet of building improvements only).

² Approximately current enrollment includes, 1,230 students (900 undergraduates and 300 graduate/adult evening class students), with 680 students living on campus. City Exhibit 22 (Staff Report, May 7), TIA, Introduction.

considers. The Examiner then issues an independent recommendation. The City Council makes the final decision on the Master Plan.³ At the time of this SEPA Decision, the Houghton Community Council had completed a hearing over three evenings and issued its Recommendation of Approval, with both staff recommended conditions and its own additional mitigation. The Applicant has accepted these measures.

A SEPA appeal was filed, so a separate adjudicatory process occurred, with a hearing encompassing three days before the Hearing Examiner. The Community Council is a separate hearing body and has no jurisdiction over the SEPA Appeal. The Examiner conducts the adjudicatory process on the SEPA appeal and issues the final decision.

4. Parties to SEPA Appeal.

SEPA Appellants. Mr. and Ms. Toedtli, Mr. Gauthier, Ms. Krynicki, Ms. Wilson, Mr. and Ms. Todd, Ms. Working, and Ms. Choi and Mr. Lee appealed. Mr. Smith represented the Appellants.

City of Kirkland, Planning and Building Department. Ms. Croll and Mr. Leavitt represented the Department.

Applicant, Northwest University. Ms. Flora and Mr. McCullough represented the Applicant.

5. SEPA Hearing Process. The SEPA hearing commenced on May 14, was continued to June 11, and closed on August 27, with the Appellants and Applicant submitting post hearing closing briefs on September 11.⁴ To organize hearing presentation, a pre-hearing conference was held on April 4, and hearing deadlines established. Under that order, the parties filed pre-hearing witness lists and exhibits.⁵ A second pre-hearing conference call was held after the first two days of hearing on August 23, 2019, to address additional procedural questions to expedite the third and last hearing day.

5.1 Re-Opening of Case. Although they had rested their case, Appellants asked the Examiner, via e-mail, if they could call a witness on the third hearing day they had not earlier called, Mr. Leavitt. Appellants did not identify the specific issues they wished to have Mr. Leavitt address, or explain why the testimony was needed. Given the Appellants had completed case presentation, with opportunity over the past two hearing days to call witnesses, the Examiner declined the request. The ruling was without prejudice to the extent the witness became necessary for rebuttal. During the remainder of the hearing process, the Appellant did not identify rebuttal issues they needed Mr. Leavitt to address.

5.2 Re-Opening of Houghton Community Council Record. The Appellants asked the Hearing Examiner to re-open the Houghton Community Council Master Plan record to

³ Subject to Ch. 152.100 KZC (Community Council disapproval authority).

⁴ The Examiner visited the site on the afternoon of May 13, 2019.

⁵ Due to scheduling conflicts, the Examiner originally presiding over the case turned the matter over the present Examiner, following the first pre-hearing conference. Order, May 7, 2019.

admit all SEPA exhibits and reconsider its recommendation. The request was made via e-mail to the Hearing Examiner in the SEPA appeal, and when made, the Houghton Community Council hearing process had concluded, with deliberations completed, and its recommendation voted on. No specific exhibits were identified as being necessary to deliberations, and no issues requiring reconsideration were identified.

Appellants' request was made in the wrong forum. For the Community Council to reopen the record, the request needed to be made to the Community Council while the record remained open, a period encompassing several months and three evenings of public hearings. The Examiner lacks authority to unilaterally direct the Community Council to reopen the record and reconsider its recommendation. In terms of Master Plan review, the Community Council and Examiner both issue a recommendation, with the Council's recommendation considered by the Examiner before her recommendation is made to the City Council. Instead of making their request to the Community Council, Appellants waited for the Master Plan hearing process to conclude and then made their request not to the Council, but through an adjudication process outside Community Council purview.

Even if the Examiner could dictate Community Council action, this approach prejudices the Applicant, given the delays the request would entail, on top of what has been a lengthy process. The maneuver would require specially setting another hearing, besides the three previous hearing days held from May through August. This requires coordinating schedules with the Council and Applicant. The Appellants had over three months to submit written materials, in addition to the previous years of staff review. If there were any concerns or materials they wished the Community Council to consider, these needed to be raised while the record was open and before the proper tribunal.

5.3 Master Plan Record. The Appellants asked during the last pre-hearing conference call, just before the last hearing day, that the Master Plan record be incorporated into the SEPA proceeding. The Applicant opposed the request. The Examiner stated she would consider the issue and address it on the last day of the hearing.

6. Exhibits. As confirmed with counsel during the last hearing day, these exhibits were admitted:

City Exhibits 1-31. Exhibits 1-29 are identified in the City's exhibit disclosure. At the hearing, the parties agreed to admission of Exhibit 30 (City's Master Plan Report, May 9) and Exhibit 31 (Houghton Community Council Recommendation).

Appellants' Exhibits 1-47, as listed in their exhibit disclosure.

The Applicant's Exhibits 1-11. Exhibits 1-7 are listed in the exhibit disclosure, with Exhibits 8 and 9 (two added mitigation measures), submitted at the hearing without objection. Exhibit 10 (Staff Report, August 7), was admitted without objection. Exhibit 11 (one page traffic LOS chart), was admitted over Appellants' objection. The Examiner admitted the document as the expert witness it was introduced through could testify as to the information on the one page chart, which was provided to rebut testimony from Appellants' witness, Mr. Toedtli.

Whether the table was adequately supported by underlying technical analysis was a question of weight, not admissibility.

At the close of hearing day three, as the Appellants had not re-raised the question of Master Plan record incorporation into the SEPA appeal, the Examiner did. The Appellants had asked that it be considered part of the record, but had not identified any additional exhibits necessary to support their case. The Applicant emphasized that the SEPA appeal is an adjudicative process which addresses only the SEPA issues, not the broader Master Plan issues, and exhibit deadlines had been established. This was the process used over all three hearing days.

The Examiner declined to issue a blanket ruling incorporating the master plan record. However, if Appellants identified a specific exhibit which should be considered in addressing their SEPA appeal, which had not been identified during pre-hearing disclosures or through the hearing process, but was in the Master Plan record, the Examiner stated leniency would be shown. Appellants identified no such documents.

During an adjudication process it reasonable to require litigants to identify the documents they wish to rely on in presenting their case. This is particularly so where the party requests a blanket admission of extensive materials, many of which are irrelevant to the appeal issues. The Appellants position when originally submitting their exhibits is consistent.⁶ The Examiner has reviewed the Master Plan record, and is considering it in preparing the separately issued Master Plan Recommendation. But, for the SEPA adjudication, it is reasonable to require litigants to identify the specific documents they wish to base their case on.

7. Appeal Issues. Unlike Master Plan review, in which the totality of project impacts were assessed, the SEPA appeal raised ten discrete issues, outlined in Appendix 3, involving three areas of contention: transportation, noise, and athletic field lighting. Transportation was the primary appeal focus, involving eight discrete issues, with one issue each for noise and lighting.

8. Transportation.

8.1 Issues 1 and 2. The parties do not dispute that 108th Avenue, which fronts the University, experiences congestion at various intersections during peak commute periods, and that growth associated with planned development will contribute traffic to those intersections.

The Applicant does not dispute that 108th Avenue NE is currently operating at Level of Service ... E or F during the weekday PM peak hour, and that congestion is proposed to increase over the next 15-20 years. The TIA [Traffic Impact Analysis] contains a detailed analysis of future and projected LOS.⁷

⁶ Appellants' Exhibit Exchange, pg. 7 ("It is likely that only portions of the above documents will be used at the hearing. If there is a desire to minimize the record, the petitioners can work to pare down many of these documents prior to hearing.").

⁷ Northwest University's Closing Brief, pg. 6:8-13, citing to Final TIA.

Due to the project's addition of traffic to these congested conditions, the City's TIA Review Memo stated that "proposed project will create significant traffic impacts that warrant off-site transportation mitigation."⁸ Transportation Impact Analysis assumptions were conservative, and the Applicant has since agreed to mitigation which will reduce total trips associated with the Master Plan.⁹ Even so, project analysis starts with the premise that the project's transportation impacts, if not mitigated, are of probable significance. However, as mitigation was imposed to address these impacts, this underlying premise alone is insufficient for the Appellants to meet their burden of proof to demonstrate clear error.

8.2 Issue 3. City Traffic Impact Analysis Guidelines require a level of service analysis when a project contributes 1% or more of traffic to an intersection. Mitigation is triggered for LOS E and F rated intersections where a project has a 15% or 5% impact, respectively. "[T]he City defines a SEPA impact requiring mitigation at signalized and unsignalized locations where the project's proportional share of daily intersection traffic related to the capacity of the intersection," meets these triggers.¹⁰ "Based on the adopted LOS standards, forecast traffic operations, and the proportionate share calculations, mitigation would be required to address project impacts at four City of Kirkland intersections...."¹¹ Relying on this analysis, the MDNS required proportionate share contributions to three transportation improvement projects,¹² with the lesser dollar figure used:

- Multi-Model Improvement (Transit Queue Jump) at 108th/NE 60th: Up to \$266,306 or 14% of cost;¹³
- Multi-Model Improvement (Transit Queue Jump) at 108th/NE 68th: Up to \$175,606 or 8% of cost;¹⁴ and,
- Intersection Improvements at 108th/NE 68th: Up to \$241,214 or 14% of cost.¹⁵

To impose these monetary contributions, there was no requirement that the Master Plan have been included in the *6th Street Corridor Study*, a City sponsored transportation analysis document which assessed methods to improve corridor functioning. It is unnecessary for an earlier City study to have evaluated the project to include mitigation identified in that study.¹⁶ The question is whether project specific analysis evaluated project impacts in conjunction with required mitigation. The Traffic Impact Analysis did so, and the Department explained its rationale:

⁸ Appellant's Issue 2, referencing Exhibit 22 (Staff Report, May 7), Enc. 1, City's December 18, 2018 Memo, pg. 1.

⁹ Testimony, Ms. Herzstein; City Exhibit 31 (Community Council Recommendation); *see also* Applicant Closing Brief, pg. 6:21-23 ("HCC recommendations will reduce trip generation by eliminating the Tennis Center and restricting field use to practices, making the TIA assumptions even more conservative.").

¹⁰ City Exhibit 22 (Staff Report, May 7), TIA, pg. 41, citing to City TIA Guidelines, Table 1.

¹¹ City Exhibit 22 (Staff Report, May 7), TIA, pg. 41.

¹² A traffic signal was also required.

¹³ City Exhibit 21 (MDNS), Condition 5, referencing City Project PT 000 5.

¹⁴ City Exhibit 21 (MDNS), Condition 6, referencing City Project PT 0006.

¹⁵ City Exhibit 21 (MDNS), Condition 7, referencing City Project TR 0117 004).

¹⁶ The project was not included in the Corridor Study as it was not approved when the Study was conducted, and even if included, it would not have changed study outcome or recommendations. City Exhibit 22 (Staff Report, May 7), Enc. 3 (Staff Report, May 5); Testimony, Mr. Nguyen.

The 6th Street Corridor improvement goal is to improve speed and reliability of transit service as well as reduce congestion and queues at the intersections. The City of Kirkland has adopted a multimodal concurrency system and the City of Kirkland Transportation Master Plan goal is to build a multimodal transportation system to move people rather than vehicles. By providing a multimodal transportation system that can move people efficiently, it will reduce the single occupancy vehicle travel and thus, reduce congestion and queues. The proportional share used to calculate the University pro-rata share was calculated by accounting trips from all uses within the master plan, including the trips from the sports fields. Therefore, the transportation impact from the sport field is being mitigated.¹⁷

As the City explained, two improvements are focused on improving transit service speed and reliability. About half of project's new traffic generation will be associated with sports field and tennis center use, and will likely not be transit users,¹⁸ although with eliminating the tennis center, and restrictions on sports field use, these impacts have since been reduced.¹⁹ Regardless, it is not a SEPA error for transportation mitigation to encompass multi-modal improvements, unless significant impacts remain even with the mitigation. The Appellants did not meet their burden to demonstrate error in requiring these payments as mitigation.

8.3 Issue 4. The Applicant's proportionate share calculation was based on the Master Plan's proportionate share of trips impacting affected intersections, consistent with City Transportation Impact Analysis Guidelines.²⁰ The City explained its approach.

The proportional share of improvement costs was calculated based on the total cost of necessary intersection improvements that is needed to mitigate the University Master Plan transportation impact to those intersections. Bullet 5, 6 and 7 under the heading Off-site SEPA Mitigation of the staff report memo dated December 18, 2018 states that the University shall contribute a proportional share to the intersection improvements of the 6th Street corridor project. The total project costs within those bullets mean the total costs of the intersection improvements and not total costs of the corridor projects that include those intersections. Table 5, within the December 18, 2018 staff report identified the corridor widening project costs, the intersection improvements' total costs and the proportional shares toward the intersection improvements' total costs. The total mitigation that includes the total intersection proportional share plus the frontage dedication is approximately \$1,218,500.²¹

Appellants disagree with the calculation but did not substantiate their claim of error.

¹⁷ City Exhibit 22 (Staff Report, May 7), Enc. 3 (Staff Report, May 5), pg. 2.

¹⁸ Applicant's Closing Brief, pg. 6:18-21.

¹⁹ Testimony, Ms. Herzstein; City Exhibit 31 (Community Council Recommendation); *see also* Applicant Closing Brief, pg. 6:21-23 ("HCC recommendations will reduce trip generation by eliminating the Tennis Center and restricting field use to practices, making the TIA assumptions even more conservative.").

²⁰ City Exhibit 22 (Staff Report, May 7), Enc. 4 (Memo, December 18, 2018); Testimony, Mr. Nguyen.

²¹ City Exhibit 22 (Staff Report, May 7), Enc. 3 (Memo, May 5), pg. 2.

8.4 Issue 5 - Improvement Costs/Timing. The City's Transportation Impact Analysis Guidelines do not require that the projects the Applicant is paying proportionate share contributions for be constructed. The Guidelines state, "developments are exempt from constructing any identified SEPA improvements that are a part of a city's planned road project noted as 'used to determine Impact Fee rate' in Table CF-10 of the Comprehensive Plan."²² The three proportionate share contributions are included in the impact fee calculation.²³ The approach the City took to mitigate was reasoned.

There is no assurance that the master plan would be fully developed in the near future. By collecting all the proportional share mitigation with the first building permit or use of the athletic field and acquiring the frontage dedication at the preliminary design phase of the corridor project, it guarantees that the City has the funding and commitment to improve the 6th Street corridor. Furthermore, the City can use the mitigation from the University to leverage local, state and federal funding for the corridor improvement. The City's goal is to construct all projects that are on the Capital Facility Plan.²⁴

In sum, the Applicant agreed, at City request, to make a *larger* proportionate share contribution directly to the three identified projects, which allows the City to receive the dedicated funds earlier, accelerating the construction timeline. This is an acceptable approach to address SEPA impacts.

8.5 Issue 6 - Cut Through Traffic. The Traffic Impact Analysis adequately disclosed impacts from cut-through traffic on neighborhood streets both south and north of the campus, and mitigation measures were imposed to reduce the impacts below a level of probable significance. Transpo's study showed 11 cut through vehicles during the AM and PM peak hours and the City required Transpo to assume the rate would double over Master Plan life, a conservative assumption. The MDNS then imposed a \$15,000 payment to mitigate cut through issues although the evidence does not demonstrate significant cut through impacts. The Houghton Community Council has recommended additional cut-through mitigation that could cause payments of up to \$105,000 over the life of the Master Plan.²⁵ This is although, "[d]ata from the traffic impact analysis ... indicate that currently there is little cut-through by the University related traffic in the neighborhood north and south of the University...."²⁶

8.6 Issue 7 - Transportation Management Program. Northwest University has adopted a Transportation Management Program, which it will be updating. The Program objective is to reduce single occupancy vehicle trips. Appellants did not identify any SEPA requirement for the Applicant to specify to what extent this Program will cause increased transit use and reduced vehicle trips as the MDNS mitigation is not tied to such assumptions.

²² Appellant's Exhibit 21, pg. 21. The parties agreed to the reference to Table CF-10 should be Table CF-5.

²³ Testimony, Ms. Herzstein and Mr. Nguyen.

²⁴ City Exhibit 22 (Staff Report, May 7), Enc. 3 (Staff Report, May 5), pgs. 2-3.

²⁵ City Exhibit 31 (Houghton Community Council Recommendation).

²⁶ City Exhibit 22 (Staff Report, May 7), Enc. 3 (Staff Report, May 5), pg. 3.

The Applicant did provide a copy of the draft program, explaining that the estimated drive rate for employees is 76%, and noting that its Traffic Impact Analysis showed a driving rate of .32 vehicles per student during the weekday PM peak hour. The Program goal is for no more than 65% of campus commute trips to occur by single-occupant vehicles.²⁷ Based on City analysis, it is likely that the Program, coupled with City review, will reduce Master Plan vehicle trips.²⁸ However, the Transportation Impact Analysis and MDNS are not based on the assumption this goal will be achieved.

8.7 Issue 8 - Weekend/Evening Public Use of Sports Fields. The Traffic Impact Analysis adequately assessed impacts associated with public use of the athletic fields.²⁹ It evaluated a worst-case scenario of maximum field use (16 teams; no carpooling) during the PM peak hour, although public use is more likely on weekends and during evening times outside this peak period.³⁰ Also, the Houghton Community Council Recommendation further restricts public use, which will further decrease impacts from those the Traffic Impact Analysis identifies.

8.8 Issue 9 - Noise Impacts of Public Use of Fields. The noise generated from public field use will be similar to what Northwest University currently generates. The Applicant must comply with established City noise standards,³¹ and will restrict field use to 8 a.m. to 9:30 p.m., ban airhorns, and limit speaker use.³² The Applicant presented expert testimony confirming noise levels will comply with City requirements and will not have impacts of probable significance.³³ The Applicant also submitted a noise study prepared by its noise expert confirming the original assessment.³⁴ The Appellants testified as to their concerns, but did not provide evidence sufficient to meet their burden of proof to demonstrate impacts of probable significance.

8.9 Issue 10 - Visual/Glare Impacts of Lighting on the Fields. The athletic field lighting will be placed only at the south field, which is furthest from the Appellants' residences, located on the north side, outside the northern buffer area. The SEPA Checklist disclosed lighting impacts based on the location and specifications of the proposed light fixtures.³⁵ The Applicant's lighting expert, Mr. Fote, testified as to how the lighting plan reduced spillover and glare, and that it does not pose significant adverse impacts. The Applicant must select, place and direct light sources so glare is reduced to the maximum extent possible, does not extend to adjacent properties or to the right-of-way.³⁶ Code compliance will be verified through

²⁷ Exhibit Applicant 11, Enc. E (Transpo Group Memo) or pg. 71 of the packet.

²⁸ City Exhibit 22 (Staff Report, May 7), Enc. 3 (Memo, May 5), pgs. 3 ("At the minimum, the staff will require the University to provide all employees and students with an Orca Business transit pass or a transit pass equivalent to a two-zone bus pass to encourage the use of transit.").

²⁹ Testimony, Ms. Herzstein; Applicant Exhibit 10 (Staff Report, August 7), pg. 2; City Exhibit 22 (Staff Report, May 7), TIA.

³⁰ Testimony, Ms. Herzstein, Mr. Nguyen.

³¹ See KZC 115.95, making Ch. 173-60 the standard for noise impacts.

³² Exhibit 22 (Staff Report, May 7), pg. 4. The Houghton Community Council Recommendation added restrictions.

³³ Testimony, Mr. Burt; see also Ch. 70.107 RCW; Ch. 173-60 WAC; Ch. 115.25 KZC; Ch. 115.95 KZC.

³⁴ Applicant Exhibit 10 (Staff Report, August 7), pg. 1 and Attachment 1, Exhibit C.

³⁵ Exhibit 22 (Staff Report, May 7), Enc. 1, SEPA Checklist, pg. 12.

³⁶ KZC 115.85(1)(c).

submission of a lighting plan and photometric site plan.³⁷ Appellants raised concerns about the lighting, but did not substantiate allegations that impacts would be of probable significance.

8.10 Mitigation, Overall. Master Plan transportation mitigation is comprehensive. The dedication discussed above includes an 880 Foot Long/12 Foot Wide Dedication Along 108th Avenue NE frontage to allow for a dedicated bus lane. In addition, a new traffic signal will be installed at 108th Avenue NE/NE 53rd Street, with intersection improvements (curb ramp, crosswalk, etc.). And, "[w]ith each building permit, a traffic review would be conducted and an assessment of potential neighborhood impacts would be included," and additional mitigation measures, such as intersection improvements, traffic calming, parking/internal campus connectivity, and event management may be required.³⁸ Monitoring and further analysis is required, including for individual projects and also to specifically address cut-through traffic concerns. While the project operates within a setting which has congested peak hour conditions, as the Traffic Impact Analysis, independent City analysis, and expert witness testimony details, the project is mitigating its impacts, and is doing more than its part to improve operating conditions.³⁹

With respect to noise, noise levels will meet City and state requirements, and will not differ in any meaningful way from current conditions. While field lighting may expand play time during a portion of the year, this is coupled with additional mitigation. The athletic fields will be strictly managed and monitored through Field Use Coordinators and monitoring, and conditions have been added to reduce or eliminate more intrusive sounds which can emanate from airhorns and speakers. The lighting itself is limited to the field furthest from the Appellants, and as the Applicant's lighting engineer testified, was designed consistent with current industry standards to minimize glare and impacts.

Appellants did not meet their burden of proof to demonstrate that transportation impacts have been improperly assessed and mitigated, or that impacts from lighting and noise have not been disclosed and mitigated.

II. CONCLUSIONS

1. The Examiner has jurisdiction over the MDNS appeal.⁴⁰ The MDNS is accorded "substantial weight," and absent clear error, is upheld.⁴¹ Under the clearly erroneous standard, the Examiner does not substitute its judgment for the agency, and reverses only if left with a definite and firm conviction that a mistake was committed.⁴² The Examiner assesses whether an appellant has produced evidence sufficient to demonstrate a project has adverse environmental impacts not mitigated below a level of probable significance. The assessment considers the project within the context of its setting and the regulatory structure which governs it.

³⁷ City Exhibit 22 (Staff Report, May 7), pg. 4.

³⁸ City Exhibit 22 (Staff Report, May 7), TIA, Executive Summary, pg. v, and Table 23, pg. 55.

³⁹ Testimony, Ms. Herzstein; Applicant Exhibit 11.

⁴⁰ Ch. 152.20 KZC; Ch. 24.02 KMC.

⁴¹ KMC 24.02.230(i)(2); *Cougar Mountain Ass'n v. King County*, 111 Wn.2d 742, 749, 764 P.2d 264 (1988);

⁴² *Cougar Mountain Ass'n v. King County*, 111 Wn.2d at 747-749; *Moss v. Bellingham*, 109 Wn. App. 6, 13, 31 P.3d 703(2001).

2. When SEPA was adopted in 1971, land use planning was not at all like the complex regulatory regime which now exists. To implement state planning requirements and address growth, the City of Kirkland has adopted Transportation Impact Analysis Guidelines and concurrency requirements, and utilizes a comprehensive planning structure to identify mitigation for projects. These requirements were applied to the project in both assessing its impacts and designating mitigation to address its impacts.

3. A project proponent is responsible for disclosing, and if an MDNS is issued, mitigating its impacts of probable significance. However, while SEPA is reviewed in the context of other development, a project proponent is not solely responsible for resolving underlying structural deficiencies. Here, an area was originally designed to primarily serve the single occupancy vehicle. The street grid is not highly interconnected and traffic is funneled out of single family neighborhoods and onto arterials. So, at peak periods, congestion results at intersections along those arterials. That is a function of designing living arrangements dependent on automobile transport to other destinations. As detailed in its analysis, the City is working to change that and designed mitigation for this project consistent with achieving that objective.

4. The traditional single family residential neighborhood, while being car centric, is built to isolate itself from automobile impacts, as vehicles are directed away and onto larger arterials. This street lay out is distinct from a tightly criss-crossed street grid, with multiple access points, where traffic is equally disbursed across the community, and impacts equally borne. With the former system, main roads will eventually experience higher levels of traffic, and residents previously shielded from traffic, upon exiting their neighborhoods, face what residents outside those neighborhoods are perhaps more accustomed to.

5. The project addresses its impacts and does its part to improve how the system operates, consistent with the City's Transportation Impact Analysis Guidelines and concurrency requirements. The City relies on this mitigation, combined with other resources, including from other development, to construct long term transportation improvements necessary to serve new development. As project impacts were addressed consistent with the City's land use planning structure, which was adopted to ensure development of adequate transportation facilities to serve new development, Appellants failed to demonstrate clear error in how the mitigation was designed, which was the principal thrust of the appeal.

6. On noise and lighting impacts, the Appellants did not meet their burden to demonstrate the presence of probable, significant adverse impacts. The Applicant demonstrated through its lighting engineer and acoustics expert that the athletic field improvements have been designed and will be managed to comply with code requirements and to minimize impacts. Lighting is placed on the south field only, at the furthest distance from the Appellants, who reside to the north, behind a landscaped buffer. The project has been fully mitigated, and the MDNS should be upheld.

7. Project mitigation is extensive and is now contained in several documents, including the MDNS, Staff Recommendation, and Houghton Community Council Recommendation. The City may elect to identify, as Appellants request, within a single

document, all the conditions and mitigation measures which will apply to the Master Plan. However, this is not necessary to uphold the MDNS.

DECISION

The City of Kirkland Building and Planning Department's Mitigated Determination of Non-Significance is upheld and the appeal dismissed. Although not required, the Department could issue a SEPA Addendum to place in one document all the mitigation now incorporated into the project. Absent a timely appeal to superior court, per Ch. 36.70C RCW, this decision is final.

DECISION entered September 19, 2019.



City of Kirkland Hearing Examiner Pro Tem
Susan Elizabeth Drummond

Appendix 1 MDNS Mitigation Measures

1. The University shall contribute \$15,000 to the City of Kirkland Neighborhood Traffic Control Program to be used to mitigate neighborhood traffic impacts in the Houghton Neighborhood in the vicinity of Northwest University.
2. The University shall improve the intersection of 108th Avenue NE/NE 53rd Street to include a new traffic signal and associated intersection improvements (curb ramp, crosswalk, etc.) to the City of Kirkland's standards.
3. In lieu of constructing half-street improvements along the 108th Avenue NE frontage to include a dedicated bus lane as described in the Phase II Transit Queue Jump improvement of the 108th corridor project (PT 0006), the City will require a width of up to 12-feet of right-of-way (ROW) dedication (approximately 880-feet) along the 108th Avenue NE University properties.
4. The University shall sell a width of up to 12-feet of frontage at 6710 108th Avenue NE for the construction of the Phase I Transit Queue Jump improvement of the 108th corridor project (PT 0005).
5. The University shall contribute a proportional share to the intersection improvement of Phase I Transit Queue Jump improvement of the 108th corridor project (PT 0005) not-to-exceed \$266,306 or 14 percent of the total project cost (whichever is lower).
6. The University shall contribute a proportional share to the intersection improvement of Phase II Transit Queue Jump improvement of the 108th corridor project (PT 0006) not –to exceed \$175,606 or 8 percent of the total project cost (whichever is lower).
7. The University shall contribute a proportional share to the intersection improvement of the NE 68th Street Intersection Improvements/Access Management (TR 0117 004) not-to-exceed \$241,214 or 14 percent of the total project cost (whichever is lower).
8. The University shall submit a parking management plan for staff review and approval prior to final building permit for the first building greater than 5,000 square feet or which public use of the athletic fields.
9. The University will create a parking management plan and monitor events that are anticipated to result in 90 percent of the campus parking supply being occupied.

Appendix 2 Applicant's Added Mitigation/Clarification

Cut-Through Traffic Evaluation and Mitigation. In recognition of the fact that it is difficult to predict future levels of cut-through traffic associated with development of the Master Plan projects, any building permit application proposing a building that exceeds 5,000 sq. ft. or provisions of public use sports field 3-years after the approved Master Plan will include an analysis of existing and project cut-through traffic impact on non-arterial streets related to Northwest University vehicles. If cut-through traffic impacts are identified that are projected to worsen as a result of the proposed project, Northwest University shall be required to pay a mitigation fee to the City's Neighborhood Traffic Control Program that is proportionate to its impacts, not to exceed \$15,000 per Master Plan project over 5,000 sq. ft. or public use of the sports field for the life of the Master Plan.⁴³

Field Use Coordinators. Northwest University will hire "Field Use Coordinators" whose responsibilities will include ensuring that the requirements of the Field Use agreement are enforced (including the morning and evening timing restrictions) and logging and responding to complaints of any kind. The University's Athletic department will be required to submit twice yearly reports to the City summarizing all complaints received and how the complaint was handled. Additional mitigation measures could be considered by the City if substantiated by the reports.⁴⁴

⁴³ Applicant's Exhibit 8.

⁴⁴ Applicant's Exhibit 9.

Appendix 3 Appellants' Issues

Issue 1. 108th Avenue NE is Significantly Congested. The *6th Street Corridor Study* and the City's adopted *Transportation Master Plan* show 108th Avenue NE currently operating at LOS E or F during the weekday PM peak commute period with extensive northbound traffic queues. These plans show extensive growth in traffic by 2035 which will significantly increase congestion and traffic queues along 108th Avenue NE, even without additional traffic associated with the Northwest University Master Plan.

Issue 2. Significant Traffic Impacts on 108th Avenue NE are Projected. The staff findings in the December 18, 2018 NW University Master Plan Development TIA Review memo from Thang Nguyen and Joel Pfundt to Tony Leavitt states that the "proposed project will create significant traffic impacts that warrant off-site transportation mitigation."

Issue 3. The Basis for Mitigating Project Impacts on 108th Avenue NE is not Appropriate. The City's TIA review and subsequent MDNS and associated documents identifies nine traffic mitigations for the off-site transportation impacts of the master Plan. Three of the nine mitigation measures require the applicant to contribute a proportional share of the costs of future transportation projects that were identified through the *6th Street Corridor Study* which was prepared by the City in 2016/2017 and adopted in early 2018. These projects are identified as:

- CIP Project PT 0005 – Phase I Transit Queue Jump at 108th Avenue NE/NE 60th Street
 - CIP Project PT 0006 – Phase II Transit Queue Jump at 108th Avenue NE/NE 68th Street
 - CIP Project TR 0117 004 – NE 68th Street Intersection Improvement/Access Management
-
- The identified improvements from the *6th Street Corridor Study* are not an appropriate basis for defining the mitigation for the Northwest University Master Plan because traffic associated with the Master Plan was specifically excluded from the *Corridor Study*. The significant increase in traffic from the Master Plan would be additive to the severe congestion and traffic queues forecast in the *Corridor Study* and the City's current *Transportation Master Plan*. The recommended improvements from the *6th Street Corridor Study* did not evaluate the additional traffic impacts of the Master Plan on future levels of congestion, traffic queues, cut-through traffic, and safety and therefore, use of these improvements as the primary basis for mitigation of the project traffic impacts on the corridor is clearly erroneous.
 - Two of the above improvements to 108th Avenue NE are solely focused on improving the speed and reliability of transit service. These two improvements will not directly or even indirectly adequately mitigate the significant traffic impact of the Master Plan on the 108th Avenue NE corridor. In addition, approximately 50 percent of the increase in traffic generation under the Master Plan proposal is associated with outside use of the sports fields and tennis center which would not likely be transit users. Therefore, using these improvements as the primary basis of traffic mitigation on the congested corridor is clearly erroneous.

4. Proportional Share of Improvement Costs is in Error. The City's estimated cost of the three improvements is \$14.85 million per the City's 2019-2024 Capital Improvement Program (CIP) and are shown as fully unfunded. However, the proposed proportional share cost is based on the costs of the three projects with a total cost of \$4.1 million (Table 5 of December 18, 2019 TIA Review memo). The December 18, 2018 TIA review memo states that the applicant's mitigation for each of these improvements is a percent of *total project costs* (emphasis added). No rationale is provided for using a lower cost estimate. Nor would a lower cost actually result in the transportation improvement results identified in the *6th Street Corridor Study*.

The MDNS states that the maximum proposed Master Plan mitigation for these three locations totals \$682,000, or 4.6 percent of the total cost. Calculating the proportional share contribution based on the full estimated improvement costs of \$14.85 million would result in over \$1.7 million in mitigation costs required by the Master Plan.

5. Contributing a Small Share of the Costs Does not Adequately Mitigate the Project's Traffic Impacts. The applicant would be required to make the proportional share payments to the City at the time of the first building permit for the Master Plan or with public use of the athletic fields. This would then allow the full 20-year Master Plan to develop without any assurances that the other 95 percent of the cost of these projects would ever materialize to design and construct the improvements. This would result in the traffic impacts of the Master Plan not being mitigated in a timely manner or possibly not being mitigated at all.

6. Evaluation and Mitigation of Cut-Through Traffic Impacts is Flawed and Clearly Erroneous. The Traffic Impact Analysis does not fully disclose or adequately mitigate the impacts of the proposed Master Plan related to increases of cut-through traffic on neighborhood streets both south and north of the campus.

7. Transportation Management Program Results are Not Disclosed. The TIA does not disclose the result of the University's existing Transportation Management Program in relationship to its required goals. The TIA does not anticipate any significant increase in transit use under the Master Plan nor does it include any requirements to reduce its trip generation through an update of its Transportation Management Program to meet the adopted goals for reducing traffic impacts of the campus (existing and proposed) Master Plan.

8. Weekend and Evening Traffic Impacts of Public Use of Sports Fields. If approved as submitted, the Master Plan application would allow extensive public use of the athletic fields between 8:00 am and 9:30 pm seven days a week. This would allow practices, games, and sports tournaments to be held, similar to those at other parks in the region. The potential transportation and parking impacts of these uses needs to be disclosed and adequately mitigated. Not including such an evaluation is clearly erroneous because it fails to disclose potential impacts and needed mitigation.

Issue 9. Noise Impacts of Public Use of Fields. The potential noise impacts on the adjacent residential neighborhoods associated with non-University uses of the sports fields during weekdays, evenings, and on weekends needs to be disclosed and mitigated.

Issue 10. Visual/Glare Impacts of Lighting on the Fields. The proposed lighting of the athletic field will likely result in visual impacts to the surrounding community. The lights will be taller than all of the buildings on campus, including the apartments along 114th Avenue NE. However, the SEPA contains no analyses of those potential impacts or associated mitigation of those resulting impacts.

SEPA Appeal Decision Exhibit List

Appellant's Appeal Letter

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Appeal_Letter.pdf

City of Kirkland SEPA Appeal Exhibits

<https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/City+of+Kirkland+SEPA+Appeal+Exhibits.pdf>

Appellant SEPA Appeal Exhibits

<https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Appellant+SEPA+Appeal+Exhibits.pdf>

Applicant SEPA Appeal Exhibits

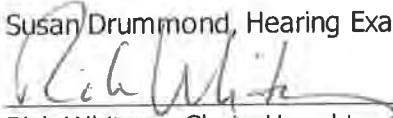
<https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Applicant+SEPA+Appeal+Exhibits.pdf>



Houghton Community Council
CITY OF KIRKLAND
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Susan Drummond, Hearing Examiner Pro Tem

From: 
Rick Whitney, Chair, Houghton Community Council

Date: September 9, 2019

Subject: NORTHWEST UNIVERSITY MASTER PLAN, ZON16-02063
RECOMMENDATION OF HOUGHTON COMMUNITY COUNCIL

Recommendation to the Hearing Examiner:

After consideration of the testimony and record presented at the public hearings for file number ZON16-02063 held on May 14th, June 11th and August 15th, the Houghton Community Council (HCC) concurs with the findings, conclusions, and recommendations contained in the Staff Advisory Report dated May 9, 2019 and subsequent memo dated August 7, 2019, except as modified below. In addition, based on review of the record and testimony at the public hearing, the Houghton Community Council recommends approval based on the following additional and modified conditions of approval:

Recommendation 1

Support the conversion of the Tennis Center to an Academic Building, subject to following conditions:

- The academic building shall be limited to 30' above Finished Grade or Existing Grade (whichever is lower) as measured from the center point of the West Facade for a distance of at least 75' East of the Puget Sound Adventist Academy (PSAA) property line. East of this line, the standard and existing building height limits would be applied - specifically 30' ABE within 100' of the campus boundary and 40' ABE for portions exceeding 100' from the campus boundary.
- The proposed 50-foot buffer along NE 53rd Street and rain garden proposed for the Tennis Center shall be retained with the Academic Building.

As a result of this recommendation, Staff Recommendation Condition 3 would be eliminated and Condition 4 would be revised to the following:

- Prior to or as part of the building permit submittal for the academic building, the applicant shall submit plans that show compliance with the KZC Sections 92.30(2), 92.30.(3),

92.30(4), 92.30(5). With regard to the minimum requirements of KZC 92.30(3), the minimum required modulation depth of 20 feet may be reduced to 6 feet.

Recommendation 2

As part of the building permit submittal for any building permit application that exceeds 5,000 square feet or prior to any public use of sports fields, the applicant shall conduct a cut-through traffic analysis for Public Works to review. Prior to study, the University's transportation consultant shall provide the scope of analysis and methodology to the City Transportation Engineer to review and approve. The cut-through study shall provide data to identify the Northwest University cut-through traffic as well as non-university cut-through traffic and speed data for cut-through routes. If cut-through traffic impacts are identified and traffic calming is determined to be necessary by the City, Northwest University shall be required to pay a mitigation fee to the City's Neighborhood Traffic Control Program that is proportionate to its impact, not to exceed \$15,000 per Master Plan project over 5,000 square feet for the life of the Master Plan and \$30,000 for public use of the sports field. The mitigation fee amounts shall be adjusted for yearly inflation using the Consumer Price Index (CPI) for the Seattle-Tacoma-Bellevue area starting in October of 2020, adjusted annually and run through the expiration of the Master Plan (December 31, 2039).

Recommendation 3

Staff Recommendation Condition 5 shall be revised to the following:

- Use of the University's athletic fields shall be limited to the following and use shall be prioritized in this order:
 - Tier 1A – Northwest University games, practices, and intramural uses.
 - Tier 1B – Northwest University and Northwest University Affiliated Groups sports camps and recruiting efforts; ancillary use by guests who have engaged NU for conference services; and ancillary use by affiliated groups, to include local, non-profit schools with academic or athletic relationships with NU.
 - Tier 2 – City-sponsored youth leagues
 - Tier 3 – Local, non-profit youth organizations ("local" is defined as a group comprised of 65% or greater Kirkland residents)
 - Tier 4 – School (local elementary, middle, and high) and other non-profit youth organizations
 - Tier 5 – For-profit youth organizations
 - Adult league sports shall not be permitted
 - Other than Tier 1A use, the fields shall be limited to practice, with no games allowed for outside organizations (Tier 1B thru Tier 5)
- Prior to use of the athletic fields by Tier 2 thru 5 groups or organizations, the applicant shall:
 - a. Submit a final agreement with the City of Kirkland Department of Parks and Community Services that includes the following:
 1. The City will schedule all public field use, subject to the priority list. The City has discretion to limit or adjust public field use as necessary to address adverse impacts.
 2. The use of air horns (and similar noise making devices) are not allowed.
 3. The use of speakers shall be limited to the southern field and must be directed to the south. No outside organizations (Tier 2 thru Tier 5) are allowed to use speakers.

4. Northwest University shall hire "Field Use Coordinators" whose responsibilities will include ensuring that the requirements of the Field Use agreement are enforced (including the morning and evening timing restrictions) and logging and responding to complaints of any kind. The University's Athletic department will be required to submit twice yearly reports to the City summarizing all complaints received and how the complaint was handled. Additional mitigation measures may be required by the City if substantiated by the reports.
5. Institute a quarterly maintenance inspection led by a member of the senior leadership team of NU (currently the CFO) with reporting requirements to remove and replace dead or dying plantings, mulch and otherwise care for the existing plantings in the north athletic field buffer and insure approved plantings are properly irrigated and cared for. The applicant shall submit a yearly report to the City to ensure that the buffer is maintained pursuant to KZC Section 95.51.

Recommendation 4:

The proposed sound wall along the north edge of the athletic field shall not be installed.

Recommendation 5:

Athletic Field use shall not begin until after 8am and must end prior to 9pm. Northwest University individual coaching and use of the fields for fitness training of athletes can occur before 8:00am, as long as conversations and noise are kept to a minimum. Outside community use will be limited to no more than 8 hours per day.

Recommendation 6:

Lights are allowed on the southern field only. Lights will be for evening use only and will be programmed to turn off at 9:30pm. Lights will be LED lights (the Musco Light-Structure Green LED System proposed by the applicant) and focused inward, toward the field, to minimize light and glare impacts on adjacent properties. Field lighting will only be in operation when fields are in use. Field lighting controls will be in a central location, only for operation by the NU Facility Manager and NU staff.

Recommendation 7:

Prior to issuance of each building permit submittal for all buildings, the applicant shall submit to the City the name and contact information for the project's Construction Coordinator. The Construction Coordinator shall be responsible for communicating with the community about construction plans and activities and responding to inquiries or complaints. Additionally, the applicant shall post the contact information for the Construction Coordinator onsite in location visible to the general public.

**CITY OF KIRKLAND HEARING EXAMINER
FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION**

**Northwest University Master Plan
Process IIB Review, ZON16-02063**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

September 19, 2019

1. FINDINGS OF FACT

1.1 Proposal. Master Plan approval request for Northwest University campus improvements.

Applicant: Northwest College Assembly of God
Represented by Mr. Drivdahl, Gelotte Hommas Architects

Site Location: Northwest University Campus
5520 108th Avenue NE, Kirkland, WA

Property Owner: Northwest College Assembly of God

1.2 Zoning. Northwest University operates college and graduate degree programs on a 55 acre campus within the City of Kirkland.¹ The site is zoned Planned Area 1, or PLA-1, with an Institutional Comprehensive Plan designation, authorizing the use subject to Master Plan approval. As directed by code, the University requested an updated Master Plan.

1.3 Project. The Master Plan covers growth over the next 20 years. It plans for 364,910 square feet of building improvements and parking,² to serve 2,000 students by 2037.³ These projects are planned over 13.2 acres:

- Replacement of Gymnasium Pavilion, with added Parking Garage;
- Replacement of Welcome Center, with added Parking Garage;
- Replacement of Ness Academic Center;
- Residence Hall (300 beds), with 60' height limits;
- Chapel Additions;
- Fitness Center/Parking Garage;
- Athletic Field Improvements (AstroTurf to Replace Grass; Lighting, South Field Only; Field House and Bleachers); and,
- Six Court Indoor Tennis Center (with 50' foot height limits) and Parking Garage.

¹ Exhibit A (Staff Report, May 9), pg. 5 (54.42)

² Exhibit A (Staff Report, May 9), TIA, pg. 5 (260,530 square feet of building improvements only).

³ Approximately current enrollment includes, 1,230 students (900 undergraduates and 300 graduate/adult evening class students), with 680 students living on campus. Exhibit A (Staff Report, May 9), TIA, Introduction.

The Applicant has since accepted Houghton Community Council recommended conditions on athletic field use and replaced the tennis center with an academic building.

1.4 SEPA Review. The City Planning and Building Department completed SEPA review, issuing a Mitigated Determination of Non-Significance.⁴ The MDNS was appealed to the Hearing Examiner and has been upheld.

1.5 Surrounding Area. Residential neighborhoods with single family homes surround much of the site, with RS 8.5 and RS 7.2 zoning. To the southwest is Puget Sound Adventist Academy, and to the south, Emerson High School. The property slopes downward east to west, with I-405 to the east.

1.6 Hearing. The public hearing opened on May 14, with continuances to June 11, and August 15. On the first day, after various procedural issues were addressed, City Staff summarized the project and the Applicant provided a power point presentation, with testimony from several experts, including its civil engineer, traffic engineer, landscape architect, lighting engineer, architect, and the University President.

Public testimony took up the remainder of the evening, and much of hearing day two, with students, neighbors, and other local residents testifying. Comment on the first day largely supported the proposal, with a mixture of support and concerns raised on day two. Local residents expressed both support and concerns, including on traffic, noise (particularly from sports field use), and aesthetics (particularly on the tennis facility).

Students who testified spoke primarily to their personal University experiences and included perspectives from both local and international students. Student support was widespread. Some hailed from countries where severe economic conditions and restrictions on educating women hampered their opportunities; University support has been critical in obtaining an education. Numerous local students also spoke to how important the University has been for them in achieving their goals.

In response to the identified concerns, voiced in both written comment and in testimony, the Houghton Community Council identified several questions for the Applicant to address before its final deliberations.

These questions were addressed through a Staff Memo, with attachments, including additional mitigation the Applicant had agreed to accept. The mitigation is significant. The tennis center was removed from the proposal and replaced with an academic building and sports field use restrictions were added.

The Council completed deliberations on day three, voting to recommend approval, with conditions from the August 7 and May 9 Staff Reports, and its own added conditions.

⁴ Exhibit A (Staff Report, May 9, 2019), pgs. 8-9 and Appendix 9, which includes the MDNS, Staff Memo on SEPA review, SEPA Checklist, traffic analysis, and Applicant's acceptance of conditions.

1.7 Administrative Record. The Administrative Record consists of several lengthy packets of materials, including Staff Reports, Applicant submittals, written public comments, documentation of tribunal member impartiality, and SEPA review materials. The documents are on file with the Planning Department; copies were e-mailed or provided in paper form to the Examiner and Council.

The written record remained open through August 15, 2019, with public comment submittals made throughout the hearing process. All materials submitted were admitted. The record is voluminous, but to help with organization was grouped into several categories:

- A. Planning Department Packet⁵ (May 9, 2019)
- B. Public Comments
- C. Applicant's Power Point
- D. Applicant Mitigation (cut-through traffic)
- E. Applicant Mitigation (field use coordinators)
- F. Transportation Analysis
- G. Additional Public Comments
- H. Conflict Materials
- I. Planning Department Packet (August 7, 2019)

1.8 Initial Public Comment. The initial public comment period ran for a month in 2016. 80 comments supported the application; 28 raised concerns. The Staff Report summarizes the most commonly identified concerns (traffic; tennis center, use of campus facilities by outside groups, and street parking) and responded.⁶ The Houghton Community Council has since recommended conditions addressing athletic field use and replacement of the tennis facility with an academic building. The Applicant has accepted these conditions.

1.9 Site History. Northwest University has occupied the site since 1958, with the first Master Plan approved in 1979. In 1985 the Master Plan was amended to allow for the Seattle Seahawks training facility, which occupied 12 acres on the east. Master Plan updates were approved in 1995, 2001, and in 2008. With the 2008 amendment, the University was approved to occupy the former football training facility, with the practice fields used for Northwest University athletic field events and intramural activities.

1.10 Landscaping and Tree Retention. The campus environment is landscaped, with trees and grass throughout. Given the clustered approach to development, nearby residents regularly walk the campus. With the Master Plan, this environment will be maintained. The improvements adhere to the clustered approach to development, and a Tree Retention Plan⁷ was prepared consistent with City requirements to protect significant trees, with subsequent development reviewed for consistency with retention requirements.⁸ To further enhance the

⁵ Mr. Leavitt made a correction to the Staff Report at § 2, pg. 3, noting the increased height limit would be 40 feet from average building elevation for the tennis center, a ten foot increase for structures within 100' of boundary. With the Community Council Recommendation, the tennis center was removed.

⁶ Exhibit A (Staff Report, May 9, 2019), pgs. 7-8. *See also* Applicant Response at Attachment 8.

⁷ Exhibit A (Staff Report, May 9, 2019), pg. 22 and Attachment 18.

⁸ Ch. 95 KZC.

campus environment, the University has proposed day-lighting a piped stream traversing a portion of the site and completing buffer restoration.⁹

1.11 Transportation. Transportation impacts were reviewed through a Traffic Impact Analysis, or TIA, and mitigation imposed through SEPA, as detailed in Appendix 1. The project is contributing funds to several transportation improvement projects, dedicating frontage to improve traffic circulation, constructing a stop-light, and taking other measures to address its impacts and improve the operations of affected intersections. The Community Council Recommendation builds on these measures, with additional mitigation to address cut-through traffic, including further analysis and monetary mitigation. This is although the Traffic Impact Analysis did not find there would be significant cut-through traffic from the Master Plan.¹⁰

1.12 Parking. Parking will be increased to support the growing student population. The Department reviewed the parking analysis, which demonstrated adequate parking is present. 2037 peak parking demand was estimated 1,040 vehicles, with 1,344 stalls available.¹¹ The TIA assessed demand from students, faculty, public use of the sports fields, and tennis center. With the removal of the tennis center and field use restrictions, the analysis is conservative. Even so, a SEPA condition requires that the Applicant submit a parking management plan for staff review and approval either with the first building or public athletic field use.

1.13 Lighting. Light poles up to 80 feet tall will be installed on the south soccer field. The lights are about 350 feet from the north property line and 260 feet from the nearest residences to the east. As part of the building permit for the lights, the applicant will submit a lighting plan and photometric site plan for Planning Official approval.¹² The Applicant must select, place, and direct light sources, so glare, to the maximum extent possible, does not extend to adjacent properties or right-of-way.¹³ The Applicant's lighting engineer described lighting design and operation, addressing questions on same at the hearing, and providing written analysis.¹⁴

1.14 Noise. The project will comply with City noise code requirements, with the athletic field subject to extensive restrictions, beyond what is now required for the use. These restrictions are summarized below, under Neighborhood Impacts. Analysis was prepared in response to Community Council questions.

The Noise Study concludes that public use of the fields for soccer practices/games and similar sports activities will comply with City of Kirkland and WAC noise standards. It also demonstrates, in the professional opinion of SSA Acoustics, that there will be no significant adverse noise impacts associated with the Master Plan proposal.¹⁵

The Applicant offered to install an acoustical barrier between the north field edge and the vegetated buffer along the north property line, which would reduce noise by an added 10-12

⁹ Exhibit A (Staff Report, May 9, 2019), pgs. 20-21.

¹⁰ Exhibit I (Staff Report, August 7), Attachment 1, pg. 11 (TIA found 11 cut-through vehicles during AM and PM peak hours; rate was doubled for purposes of determining future impacts and mitigation).

¹¹ Exhibit A (Staff Report, May 9), TIA, Table 21.

¹² KZC 115.85; Exhibit A (Staff Report, May 9), pgs. 19-20.

¹³ KZC 115.85.

¹⁴ Exhibit I (Staff Report, August 7), Attachment 1, pgs. 8-9.

¹⁵ Exhibit I (Staff Report, August 7), Attachment 1, pg. 11.

decibels.¹⁶ However, as neighbors to the north did not desire it, this offer was not incorporated into the Community Council Recommendation.

1.15 Code Revisions. Approval of the proposal would amend Ch. 45.60 RZC, which contains regulations specific to this site. Revisions to address the Master Plan are detailed in the Staff Reports.¹⁷ Besides these requirements, the Master Plan is subject to the City's other development standards, which further address project impacts, and includes requirements on landscaping, tree protection, parking, pedestrian walkways, signage, construction equipment operation times, and noise levels.¹⁸

1.16 Comprehensive Plan. The City's development regulations address Master Plan impacts, so the Comprehensive Plan need not be used to address any regulatory gaps. However, the Master Plan is consistent with the Comprehensive Plan designation. It also follows policies providing for early community involvement in developing an expansion plan. With a project website, open houses, stakeholder meetings and neighborhood meetings, coupled with three evenings before the Houghton Community Council and Examiner, the project has been vetted.

Other policies are also met, including those on master plan boundaries and minimizing impacts on surrounding single-family neighborhoods. Consistent with the Comprehensive Plan, this has been accomplished through buffering, measures to address cut-through traffic, minimizing noise and lighting impacts, regulating height and building mass/placement, and addressing landscaping, vehicular access, and transportation impacts through environmental review, development regulations, and the extensive review processes.¹⁹

1.17 Neighborhood Impacts. With the Staff Report and Houghton Community Council's recommended conditions, coupled with the City's regulatory structure, the new campus improvements introduce improvements consistent with the site's historic uses. Development is mitigated with setbacks, landscaping, height limits, project design, and parking requirements, along with measures governing athletic field use, which prescribe:

- Operation times;
- The entities which may utilize the field, establishing an order of preference with University use at the top of the hierarchy and putting the City in charge of scheduling public field use;
- Locating lighting only on the south field, away from single family homes on the north;
- Air horns, which are prohibited;
- Speaker requirements, limiting them to the south field and prohibiting their use by non-University groups;
- Field Use Coordinator requirements, who must be retained to ensure restrictions are enforced, including morning and evening operational requirements;
- Twice yearly reporting; and,
- Quarterly maintenance inspections.²⁰

¹⁶ Exhibit I (Staff Report, August 7), Attachment 1, pg. 11.

¹⁷ Exhibit A (Staff Report, May 9), pgs. 13-15, Appendix 13.

¹⁸ Exhibit A (Staff Report, May 9), Appendix 3 (Development Standards).

¹⁹ Exhibit A (Staff Report, May 9), pgs. 22-23; Recommendation Appendixes 1-4 (identifying added mitigation).

²⁰ Appendix 4 (Houghton Community Council Recommendation); Exhibit I (Staff Report, August 7), Attachment 1, pg. 10.

With these measures, and as the Master Plan is designed, the overall campus character will be retained and the use will fit in with the surrounding neighborhood, protecting the public health, safety, and welfare. Overarching positive attributes related to public health, safety, and welfare include:

- Clustering development to protect open space;
- Providing ample parking and stronger pedestrian connections on campus;
- Updating and improving many of the aging facilities on campus;
- Providing ample buffering to neighboring properties;
- Opening campus facilities to public use and enjoyment;
- Improving streetscapes;
- Improving stormwater treatment;
- Improving ecological function of College Creek;
- Improving Emergency Shelter Facilities on Campus.²¹

As mitigated, the proposal will not introduce new facilities or activities which would be detrimental to neighborhood character. The mitigation imposed is extensive and in certain instances more than is typical. However, project design has thoughtfully evolved throughout the review process to address neighborhood compatibility, with mitigation tailored to ensure public concerns were addressed.

1.18 Staff Reports and Houghton Community Council Recommendation, Incorporation. Except as modified, the Houghton Community Council and the May 9 and August 7, 2019 Staff Reports are incorporated by reference.

2. CONCLUSIONS OF LAW

2.1 The Hearing Examiner conducts a public hearing and issues a recommendation in a Process IIB review. As the proposal is within Houghton Community Council jurisdiction, the Community Council also makes a recommendation, which the Examiner has received and considered. The City Council then makes a final decision on the Master Plan.²²

2.2 The proposal is only approved if the Applicant demonstrates consistency with these criteria:²³

- a. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
- b. It is consistent with the public health, safety and welfare.²⁴

The project follows City development regulations.²⁵ No regulation was identified during the extensive review process which could not be met. No area was identified lacking regulatory coverage, but the project also follows the Comprehensive Plan, which supports appropriately

²¹ Exhibit C (Applicant Power Point).

²² Ch. 152 KZC.

²³ KZC 152.55 (applicant has the burden of proof).

²⁴ KZC 152.70(3).

²⁵ Exhibit A (Staff Report, May 9), *see also* Appendix 3, identifying various development standards.

sited University facilities. The Master Plan has been heavily mitigated to ensure compatibility with the surrounding residential neighborhood. The proposed Master Plan revisions support the existing school use consistent with the public health, safety, and welfare, and should be approved.


2.3 These conclusions are based on the findings above.

RECOMMENDATION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, recommends approval of the requested Master Plan to the City Council, subject to the conditions outlined in the Houghton Community Council Recommendation, which incorporates conditions from the May 9 and August 7, 2019 Staff Reports, except as modified by its Recommendation.

If a party wishes to challenge this Recommendation, the challenge must be timely filed and served, with required fees paid, in accordance with Ch. 152.85 KZC procedures. These procedures require that the challenge be made within seven calendar days of Recommendation distribution.

Entered September 19, 2019.



City of Kirkland Hearing Examiner Pro Tem
Susan Elizabeth Drummond

Appendix 1

MDNS Mitigation Measures

1. The University shall contribute \$15,000 to the City of Kirkland Neighborhood Traffic Control Program to be used to mitigate neighborhood traffic impacts in the Houghton Neighborhood in the vicinity of Northwest University.
2. The University shall improve the intersection of 108th Avenue NE/NE 53rd Street to include a new traffic signal and associated intersection improvements (curb ramp, crosswalk, etc.) to the City of Kirkland's standards.
3. In lieu of constructing half-street improvements along the 108th Avenue NE frontage to include a dedicated bus lane as described in the Phase II Transit Queue Jump improvement of the 108th corridor project (PT 0006), the City will require a width of up to 12-feet of right-of-way (ROW) dedication (approximately 880-feet) along the 108th Avenue NE University properties.
4. The University shall sell a width of up to 12-feet of frontage at 6710 108th Avenue NE for the construction of the Phase I Transit Queue Jump improvement of the 108th corridor project (PT 0005).
5. The University shall contribute a proportional share to the intersection improvement of Phase I Transit Queue Jump improvement of the 108th corridor project (PT 0005) not-to-exceed \$266,306 or 14 percent of the total project cost (whichever is lower).
6. The University shall contribute a proportional share to the intersection improvement of Phase II Transit Queue Jump improvement of the 108th corridor project (PT 0006) not –to exceed \$175,606 or 8 percent of the total project cost (whichever is lower).
7. The University shall contribute a proportional share to the intersection improvement of the NE 68th Street Intersection Improvements/Access Management (TR 0117 004) not-to-exceed \$241,214 or 14 percent of the total project cost (whichever is lower).
8. The University shall submit a parking management plan for staff review and approval prior to final building permit for the first building greater than 5,000 square feet or which public use of the athletic fields.
9. The University will create a parking management plan and monitor events that are anticipated to result in 90 percent of the campus parking supply being occupied.

Appendix 2

Applicant's Added Mitigation/Clarification

Cut-Through Traffic Evaluation and Mitigation. In recognition of the fact that it is difficult to predict future levels of cut-through traffic associated with development of the Master Plan projects, any building permit application proposing a building that exceeds 5,000 sq. ft. or provisions of public use sports field 3-years after the approved Master Plan will include an analysis of existing and project cut-through traffic impact on non-arterial streets related to Northwest University vehicles. If cut-through traffic impacts are identified that are projected to worsen as a result of the proposed project, Northwest University shall be required to pay a mitigation fee to the City's Neighborhood Traffic Control Program that is proportionate to its impacts, not to exceed \$15,000 per Master Plan project over 5,000 sq. ft. or public use of the sports field for the life of the Master Plan.²⁶

Field Use Coordinators. Northwest University will hire "Field Use Coordinators" whose responsibilities will include ensuring that the requirements of the Field Use agreement are enforced (including the morning and evening timing restrictions) and logging and responding to complaints of any kind. The University's Athletic department will be required to submit twice yearly reports to the City summarizing all complaints received and how the complaint was handled. Additional mitigation measures could be considered by the City if substantiated by the reports.²⁷

²⁶ Exhibit D.

²⁷ Exhibit E.

Appendix 3

**Staff Report (May 9, 2019)
Recommended Conditions**

**(Conditions Taken Directly from Staff Report;
References to Conclusions are to Staff Report Conclusions)**

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 3, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations currently in effect. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Attachment 3, the condition of approval shall be followed.
2. Staff recommends approval of the proposed changes to the special regulations. Attachment 13 outlines the changes that would need to be made to the applicable special regulations (see Conclusion II.E.1).
3. As part of the building permit submittal for the tennis center, the applicant shall submit a final use agreement that ensures that the facility will be used by the University a majority of the time. Additionally, the agreement shall ensure that the running and walking track will be free and open to all members of the Houghton community as well as students, faculty, staff and guests of Northwest University (see Conclusion II.E.2).
4. Prior to or as part of the building permit submittal for the tennis center, the applicant shall submit plans that show compliance with the KZC Sections 92.30(2), 92.30(3), 92.30(4), 92.30(5). With regard to the minimum requirements of KZC 92.30(3), the minimum required modulation depth of 20' be reduced to 6' (see Conclusion II.E.2).
5. Prior to use of the athletic fields by outside groups or organizations, the applicant shall:
 - a. Submit a final use agreement that incorporates the polices outlined in the applicant's submittal (see Conclusion II.E.3). Additionally, the use agreement shall incorporate the following requirements:
 1. The use of air horns (and similar noise making devices) are not allowed.
 2. The use of speakers will be limited to the southern field and must be directed to the south.
 3. If there appears to be unauthorized usage of the fields, neighbors shall contact the NU Security office at 425.889.5500 to report the potential unauthorized use so it can be investigated promptly.

4. Institute a quarterly maintenance inspection led by a member of the senior leadership team of NU (currently the CFO) with reporting requirements to remove and replace dead or dying plantings, mulch and otherwise care for the existing plantings in the buffer and insure existing plantings are properly irrigated and cared for.

b. Install new fencing to fully enclose the northern landscape buffer (with the only access being through locked maintenance gates) and install 30-foot netting along the northern edge of the fields to control errant (see Conclusion II.E.3).

6. As part of the building permit for the field lights, the applicant shall submit a lighting plan and photometric site plan for approval by the Planning Official (see Conclusion II.E.4).

7. Student enrollment shall be limited to 1,200 FTE's for on-campus undergraduate resident students and an overall enrollment on campus (including undergraduates, graduate, evening and weekend degree and commuter students) of 2,000 FTE's (see Conclusion II.E.5).

8. As part of the building permit submittal for the Welcome Center (Phase 3), the applicant shall submit a critical area report and plan that complies with the requirements of KZC Section 90.75.3. The applicant shall fund a peer review of the critical area report by the City's consultant (see Conclusion II.E.6).

9. As part of the grading permit for the athletic field improvements (Phase 5), the applicant shall submit a stream buffer restoration plan that complies with the vegetative buffer standards contained in Kirkland Zoning Code section 90.130. The applicant shall fund a peer review of the vegetative buffer plan by the City's consultant (see Conclusion II.E.6).

10. Prior to issuance of the first building permit application, the applicant shall submit a final Transportation Management Plan for review, approval, and recording by the City. The TMP shall distribute free bus passes to all on campus employees and students (see Conclusion II.E.7).

11. As part of any development permit for the campus, the applicant shall submit a tree retention plan for review by Staff (see Conclusion II.E.8).

12. The Notice of Approval shall be valid until the December 31, 2039 to allow the construction of all phases currently being proposed (see Conclusion V.B).

Appendix 4

Houghton Community Council Master Plan Recommendation

and

Staff Report (August 7, 2019), w/out attachments



Houghton Community Council
CITY OF KIRKLAND
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Susan Drummond, Hearing Examiner Pro Tem

From: _____
Rick Whitney, Chair, Houghton Community Council

Date: September 9, 2019

Subject: NORTHWEST UNIVERSITY MASTER PLAN, ZON16-02063
RECOMMENDATION OF HOUGHTON COMMUNITY COUNCIL

Recommendation to the Hearing Examiner:

After consideration of the testimony and record presented at the public hearings for file number ZON16-02063 held on May 14th, June 11th and August 15th, the Houghton Community Council (HCC) concurs with the findings, conclusions, and recommendations contained in the Staff Advisory Report dated May 9, 2019 and subsequent memo dated August 7, 2019, except as modified below. In addition, based on review of the record and testimony at the public hearing, the Houghton Community Council recommends approval based on the following additional and modified conditions of approval:

Recommendation 1

Support the conversion of the Tennis Center to an Academic Building, subject to following conditions:

- The academic building shall be limited to 30' above Finished Grade or Existing Grade (whichever is lower) as measured from the center point of the West Facade for a distance of at least 75' East of the Puget Sound Adventist Academy (PSAA) property line. East of this line, the standard and existing building height limits would be applied - specifically 30' ABE within 100' of the campus boundary and 40' ABE for portions exceeding 100' from the campus boundary.
- The proposed 50-foot buffer along NE 53rd Street and rain garden proposed for the Tennis Center shall be retained with the Academic Building.

As a result of this recommendation, Staff Recommendation Condition 3 would be eliminated and Condition 4 would be revised to the following:

- Prior to or as part of the building permit submittal for the academic building, the applicant shall submit plans that show compliance with the KZC Sections 92.30(2), 92.30.(3),

92.30(4), 92.30(5). With regard to the minimum requirements of KZC 92.30(3), the minimum required modulation depth of 20 feet may be reduced to 6 feet.

Recommendation 2

As part of the building permit submittal for any building permit application that exceeds 5,000 square feet or prior to any public use of sports fields, the applicant shall conduct a cut-through traffic analysis for Public Works to review. Prior to study, the University's transportation consultant shall provide the scope of analysis and methodology to the City Transportation Engineer to review and approve. The cut-through study shall provide data to identify the Northwest University cut-through traffic as well as non-university cut-through traffic and speed data for cut-through routes. If cut-through traffic impacts are identified and traffic calming is determined to be necessary by the City, Northwest University shall be required to pay a mitigation fee to the City's Neighborhood Traffic Control Program that is proportionate to its impact, not to exceed \$15,000 per Master Plan project over 5,000 square feet for the life of the Master Plan and \$30,000 for public use of the sports field. The mitigation fee amounts shall be adjusted for yearly inflation using the Consumer Price Index (CPI) for the Seattle-Tacoma-Bellevue area starting in October of 2020, adjusted annually and run through the expiration of the Master Plan (December 31, 2039).

Recommendation 3

Staff Recommendation Condition 5 shall be revised to the following:

- Use of the University's athletic fields shall be limited to the following and use shall be prioritized in this order:
 - Tier 1A – Northwest University games, practices, and intramural uses.
 - Tier 1B – Northwest University and Northwest University Affiliated Groups sports camps and recruiting efforts; ancillary use by guests who have engaged NU for conference services; and ancillary use by affiliated groups, to include local, non-profit schools with academic or athletic relationships with NU.
 - Tier 2 – City-sponsored youth leagues
 - Tier 3 – Local, non-profit youth organizations ("local" is defined as a group comprised of 65% or greater Kirkland residents)
 - Tier 4 – School (local elementary, middle, and high) and other non-profit youth organizations
 - Tier 5 – For-profit youth organizations
 - Adult league sports shall not be permitted
 - Other than Tier 1A use, the fields shall be limited to practice, with no games allowed for outside organizations (Tier 1B thru Tier 5)
- Prior to use of the athletic fields by Tier 2 thru 5 groups or organizations, the applicant shall:
 - a. Submit a final agreement with the City of Kirkland Department of Parks and Community Services that includes the following:
 1. The City will schedule all public field use, subject to the priority list. The City has discretion to limit or adjust public field use as necessary to address adverse impacts.
 2. The use of air horns (and similar noise making devices) are not allowed.
 3. The use of speakers shall be limited to the southern field and must be directed to the south. No outside organizations (Tier 2 thru Tier 5) are allowed to use speakers.

4. Northwest University shall hire "Field Use Coordinators" whose responsibilities will include ensuring that the requirements of the Field Use agreement are enforced (including the morning and evening timing restrictions) and logging and responding to complaints of any kind. The University's Athletic department will be required to submit twice yearly reports to the City summarizing all complaints received and how the complaint was handled. Additional mitigation measures may be required by the City if substantiated by the reports.
5. Institute a quarterly maintenance inspection led by a member of the senior leadership team of NU (currently the CFO) with reporting requirements to remove and replace dead or dying plantings, mulch and otherwise care for the existing plantings in the north athletic field buffer and insure approved plantings are properly irrigated and cared for. The applicant shall submit a yearly report to the City to ensure that the buffer is maintained pursuant to KZC Section 95.51.

Recommendation 4:

The proposed sound wall along the north edge of the athletic field shall not be installed.

Recommendation 5:

Athletic Field use shall not begin until after 8am and must end prior to 9pm. Northwest University individual coaching and use of the fields for fitness training of athletes can occur before 8:00am, as long as conversations and noise are kept to a minimum. Outside community use will be limited to no more than 8 hours per day.

Recommendation 6:

Lights are allowed on the southern field only. Lights will be for evening use only and will be programmed to turn off at 9:30pm. Lights will be LED lights (the Musco Light-Structure Green LED System proposed by the applicant) and focused inward, toward the field, to minimize light and glare impacts on adjacent properties. Field lighting will only be in operation when fields are in use. Field lighting controls will be in a central location, only for operation by the NU Facility Manager and NU staff.

Recommendation 7:

Prior to issuance of each building permit submittal for all buildings, the applicant shall submit to the City the name and contact information for the project's Construction Coordinator. The Construction Coordinator shall be responsible for communicating with the community about construction plans and activities and responding to inquiries or complaints. Additionally, the applicant shall post the contact information for the Construction Coordinator onsite in location visible to the general public.



CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425.587.3600- www.kirklandwa.gov

MEMORANDUM

To: Houghton Community Council
Kirkland Hearing Examiner

From: Tony Leavitt, Senior Planner
Jeremy McMahan, Planning and Building Deputy Director
Thang Nguyen, Transportation Engineer

Date: August 7, 2019

Subject: ZON16-02063, Northwest University Master Plan, Response to Questions from June 11th Hearing

During the June 11, 2019 Public Hearing for the Northwest University Master Plan, the Houghton Community Council requested additional information from staff and the applicant to address issues that were raised during the public hearings on May 14th and June 11th.

The issues raised during the hearing and the responses from staff are summarized below. The applicant's responses are included in Attachment 2.

Public Athletic Field Use

As part of the Master Plan, the applicant is proposing to open the athletic fields up for public use. During the public hearings, the Houghton Community Council had concerns about noise impacts associated with the field, including the use of speakers; traffic and parking impacts associated with the public field use; and ensuring community use of the fields.

Staff Response:

Noise: The applicant has submitted a Noise Study (see Attachment 1, Exhibit C) to address the concerns regarding noise impacts. The Noise Study concludes that public use of the fields for soccer practices/games and similar sports activities will comply with City of Kirkland and WAC noise standards. It also concludes, in the professional opinion of SSA Acoustics, that there will be no significant adverse noise impacts associated with the Master Plan proposal.

Additionally, the applicant is proposing to construct an acoustical barrier (see Attachment 1, Exhibit D) along the northern edge of the fields to further mitigate any potential noise impacts on the neighboring property owners. The applicant is willing to accept a condition requiring construction of the acoustical barrier along the northern property line.

Traffic and Parking: The applicant's transportation engineer has provided additional information about the assumptions that were made in the transportation impact analysis related to public use of the field (see Attachment 1, Exhibit E). The memo concludes the following:

- *The worst-case transportation impacts of public use of the field would occur during the weekday PM peak hour when the University is in full session. As a practical matter, Northwest University (not third parties) would be expected to use the fields at those times, but the traffic analysis evaluated the worst-case scenario to understand the full range of anticipated impacts. Any public use of the fields on weekends would occur when traffic on the campus and surrounding transportation system traffic is low, so transportation impacts on weekends would be less than studied in the environmental review.*
- *In regard to parking, the parking analysis shows 355 available parking spaces at 5 p.m. with public use of the field. The available parking continues to increase after 5 p.m.; therefore, even if there were an overlap with additional use of the field, there would still be parking available. The University will use parking management strategies to ensure that there is available parking proximate to the fields when public use will occur. These strategies may include assigning students and employees to other parking lots to minimize parking in fields near the lots.*

Community Use of Fields: In order to address the HCC concerns regarding the community use of the fields, the applicant had a meeting John Lloyd, City of Kirkland Parks and Community Services Deputy Director (see Attachment 1, Exhibit B). In their July 31st memo to the HCC, the Parks and Community Services Department confirmed the City's interest in the use of the fields by the City and community organizations and outlined the City's Interlocal Agreement with the Lake Washington School District (LWSD). That agreement employs a priority system to ensure that local non-profit uses are prioritized above other uses when scheduling fields. The University has proposed an additional permit condition to utilize a similar tiered system for field use and willingness to enter into an ILA with the City for the City to schedule all non-University field use similar to the arrangement with the LWSD.

Traffic and Parking Impacts

A number of questions related to transportation and parking analysis and impacts were raised at the public hearing. Issues included trip generation of the proposed uses, parking accommodations and management, effectiveness of the existing Transportation Management Program and how will the new one be improved, addressing cut through traffic, traffic signal location along 108th Avenue NE, and the Master Plan relationship to the 6th Street Corridor Study.

Staff Response:

Trip Generation: The applicant's transportation engineer has provided the following table showing a summary of the anticipated total Master Plan trip generation in 2022 and 2037 by the proposed land uses (see Attachment 1, Exhibit E). The land use category "Northwest University Campus" represents the vehicle growth anticipated with the proposed Master Plan buildings and the anticipated increase in campus population associated with the Master Plan development. This Northwest University Campus vehicle growth is equated to a student count; however, it is inclusive of all traffic for all proposed campus uses.

Table 1. Master Plan Estimated New Vehicular Trip Generation by Horizon Year

Land Use	Size	Trip Rate ^{1,2}	2022			2037		
			Total	In	Out	Total	In	Out
<i>Weekday Daily</i>								
Northwest University Campus ³	+370 students (2022) +770 students (2037)	4.22 per student	1,560	780	780	3,260	1,625	1,625
Tennis Center ³	6 courts	38.70 per court	250	125	125	250	125	125
Public Sports Field Use	-	-	384	192	192	384	192	192
Total			2,194	1,097	1,097	3,884	1,942	1,942
<i>Weekday AM Peak Hour</i>								
Northwest University Campus	+370 students (2022) +770 students (2037)	0.23 per student	85	51	34	177	106	71
Tennis Center	6 courts	3.58 per court	22	11	11	22	11	11
Public Sports Field Use	-	-	0	0	0	0	0	0
Total			107	62	45	199	117	82
<i>Weekday PM Peak Hour</i>								
Northwest University Campus	+370 students (2022) +770 students (2037)	0.32 per student	118	59	59	246	123	123
Tennis Center	6 courts	3.58 per court	22	12	10	22	12	10
Public Sports Field Use	-	-	192	100	30	192	100	30
Total			332	231	101	460	295	165
¹ Site specific trip rates calculated based on field observations for the campus daily and peak hour conditions and Eastside Tennis Center peak hour conditions. Daily trip rate for tennis center based on Institute of Transportation Engineers Trip Generator, 9th Edition tennis/racket club land use (#491). ² Trip generation for the sports fields is based on use of the fields for youth soccer. ³ Trip generation rounded up to the nearest 5 vehicles.								

Parking Accommodations and Management: In regard to parking accommodation and management, the applicant's analysis shows a minimum of approximately 300 available (surplus) spaces on-campus with complete build out of the proposed Master Plan, including the tennis center and public use of the fields. The available number of parking stalls continues to increase after 5:00 p.m. as the number of classes decreases and commuter students and employees are no longer on-campus. Given the available parking, additional activities/special events can be accommodated in the evening hours on weekdays.

Northwest University will develop a parking and event management plan that will be approved by the City prior to any building permit issuance or public use of the fields under the proposed Master plan. The general framework and key elements of the Parking Management Plan will include items such as:

- Assign the campus population, such as residents and commuters, to specific parking lots on campus to manage available parking and ensure parking is open near the fields or other areas where public use may occur.
- Manage event schedules to minimize concurrent high activity events on-campus.
- Designate specific event parking lots.
- Provide way-finding signage to direct visitors to specific parking facilities and pick-up/drop-off area.
- Active enforcement of parking restrictions.
- Post no parking sign along NE 53rd Street during events and visually monitor neighborhood parking during the event.
- Designate a representative from Northwest University to coordinate public use of facilities including parking management associated with the activities.
- Provide parking monitors and flagger to direct visitors to on-campus parking lots.

Transportation Management Program: Thang Nguyen, Transportation Engineer, has outlined in his memo the current and future TMP requirements, the Draft Transportation Management Plan and the Commute Trip Reduction Survey from April of 2017 (see Attachment 2). The current drive-alone rate for employees is 76 percent based on the 2017 Commute Trip Reduction survey.

According to the applicant's transportation engineer, overall driving trips to the campus are less when the total population is considered (students and employees). The campus vehicle counts conducted for the Transportation Impact Analysis (TIA) showed a driving rate of 0.32 vehicles per student headcount during the weekday PM peak hour.

The new TMP that will be required with the Master Plan is anticipated to decrease drive alone rates further by implementing more strategies that have proven to work both locally and nationally. The goal of this TMP shall be that no more than 65 percent of the Northwest University Kirkland Campus commute trips occur by single-occupant vehicles. The goal will apply to both student and employee commuter trips. New strategies being considered for the TMP are:

- Transit pass subsidy for benefited employees and commuter students
- Incentives for benefited employees using alternative modes

The Master Plan also includes increased on-campus housing, which will assist in decreasing drive alone trips.

Cut Through Traffic: In order to address cut through traffic, the applicant is proposing a condition that with any building permit application proposing a building that exceeds 5,000 sq. ft. or provisions of public use of sports field 3-years after the approval of the Master Plan will include an analysis of existing and projected cut-through traffic impact on non-arterial streets related to Northwest University. If cut through traffic impacts are identified that are projected to worsen as a result of the proposed project, Northwest University shall be required to pay a mitigation fee to the City's Neighborhood Traffic Control Program that is proportionate to its impact, not to exceed \$15,000 per Master Plan project over 5,000 sq. ft. or public use of the sports field for the life of the Master Plan.

The Northwest University Master Plan includes 6 buildings over 5,000 square-feet and public use of the sports field, which would require payment of the cut-through traffic mitigation of \$15,000 each if impacts are identified. The potential cut-through traffic mitigation fee is up to \$105,000. The applicant has provided table showing the costs of various traffic calming devices and the pros and cons of each type. Any traffic devices in the neighborhood would involve a public process involving neighbors impacts by the traffic calming.

The Staff Recommendation for the project includes a condition to install a traffic signal at the intersection of 108th Avenue NE and NE 53rd Street. Some Houghton Community Council Members asked if a signal located at the main entrance to the campus and 108th Avenue NE would be a better location.

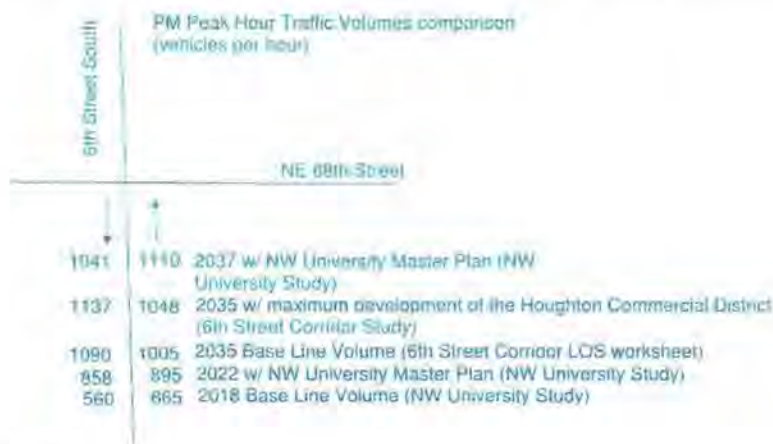
Thang Nguyen states in his memo that the Public Works Department does not support signaling the University's main entrance on 108th Avenue NE instead of the intersection of 108th Avenue NE/NE 53rd Street because it will not alleviate the poor level of service at the intersection of 108th Avenue NE/NE 53rd Street. Furthermore, signaling the campus main entrance will not allow the opportunity to incorporate the crosswalk south of NE 53rd Street into the intersection of 108th Avenue NE/NE 53rd Street to improve crossing safety. The signalization of 108th Avenue NE/NE 53rd Street is a requirement of the current Master Plan and was based on the neighborhood's desire to improve the operation at the intersection. Furthermore, signaling the

University's main entrance will conflict with the City's 6th Street Corridor plan improvement to add a bus lane in that area.

6th Street Corridor Study: Finally, the HCC requested that Staff provide the projected traffic from the 6th Street Corridor Study and the phases of the Master Plan. Thang Nguyen provides the following response:

The figure below provides the PM Peak hour forecasted traffic on 108th Avenue NE for the various scenarios. The 2035 forecasted traffic volumes are from the 6th Street Corridor Study. The Baseline Volume represents the traffic adopted 2035 land use within the City Comprehensive Plan and 2035 with maximum development of the Houghton Community District represents the maximum redevelopment potential of the Houghton Community District added on top of the adopted 2035 land use. More detailed information on traffic growth are provided on page 25, 47, 48, 108 and 114 of the 6th Street Corridor Study.

The 2022 and 2037 traffic volumes are from the Northwest University traffic impact analysis report; these volumes include a 2% per year growth added on top of the existing traffic volumes plus pipeline traffic volumes from other approved development projects.



Tennis Center

During the Public Hearing, both the HCC and Community members expressed concerns about bulk and height of the tennis center, the private use of the tennis center, and community access to the facility.

The applicant explored several options for reducing the bulk of the building, but they were unable to identify an option that would retain the building's functionality.

As a result, the applicant has decided they would be willing to convert the proposed Tennis Center to an academic building, if recommended and so conditioned by the HCC and/or Examiner.

If so conditioned, the applicant has indicated the following reduced impacts:

- Based on initial, conceptual renderings, the overall building footprint would decrease from 52,000 sq. ft. to approximately 35,600 sq. ft. if the Tennis Center were converted to an academic building.

- The academic building would be limited to 30' above Finished Grade or Existing Grade (whichever is lower) as measured from the center point of the West Facade for a distance of at least 75' East of the PSAA property line. East of this line, the standard and existing building height limits would be applied (specifically 30' ABE within 100' of the campus boundary and 40' ABE for portions exceeding 100' from the campus boundary). Attachment 1, Exhibit F provides an illustration of proposed height, bulk and scale of the academic building, as compared to the Tennis Center.
- The applicant would propose to retain the existing, 50' buffer and rain garden (which was originally proposed to mitigate impacts associated with the increased height requested for the Tennis Center).

After reviewing the potential conversion from Tennis Center to academic building, staff supports conditioning the project accordingly, subject to compliance with existing height limits and retention of the 50' buffer and rain garden. Specific design of the building would be reviewed and evaluated by staff through an administrative process, similar to the other buildings proposed in the Master Plan. The conversion would have lesser impacts in terms of building mass and would not increase the proposed enrollment.

The Houghton Community Council did have a question regarding any examples of commercial uses located within an institutional use. Staff was unable to find any examples of commercial uses located on public or private colleges or schools within the City. However, it should be noted that some Lake Washington School District schools within the City do host non-profit organizations likes churches and sporting events. LWSD policies state that for-profit or commercial groups are not permitted without the prior approval of the Board of Directors.

Attachments

1. Applicant's Response to HCC Comments and Questions
2. Memo from Thang Nguyen, Transportation Engineer

Hearing Examiner Recommendation Exhibit List

Exhibit A, Staff Recommendation Memo Part 1

<https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Houghton+Community+Council/Northwest+University+Master+Plan+HE+HCC+Joint+Meeting+Packet+Part1.pdf>

Exhibit A, Staff Recommendation Memo Part 2

<https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Houghton+Community+Council/Northwest+University+Master+Plan+HE+HCC+Joint+Meeting+Packet+Part2.pdf>

Exhibit A, Staff Recommendation Memo Part 3

<https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Houghton+Community+Council/Northwest+University+Master+Plan+HE+HCC+Joint+Meeting+Packet+Part3.pdf>

Exhibit A, Staff Recommendation Memo Part 4

<https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Houghton+Community+Council/Northwest+University+Master+Plan+HE+HCC+Joint+Meeting+Packet+Part4.pdf>

Exhibit B, Public Comments Prior to May 15th

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_B+Public+Comments+Prior+to+5.15.pdf

Exhibit C, Applicant's Presentation from May 14th Hearing

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_C+NU+Brand+Power+Point.pdf

Exhibit D, Applicant's Proposed Traffic Mitigation

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_D+Applicant's+Presentation.pdf

Exhibit E, Applicant's Field Use Coordinator Proposal

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_E+Applicant's+Field+Use+Proposal.pdf

Exhibit F, Final Transportation Impact Analysis

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_F+Transportation+Impact+Study.pdf

Exhibit G, Public Comments After May 14th

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_G+Public+Comments+after+5.14.pdf

Continued on the next page

Exhibit H, Memo from Betsy Pringle (HCC Councilmember)

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_H+Memo+from+Betsy+Pringle.pdf

Exhibit I, Staff Memo dated August 7, 2019 (Link to here:

[https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Hearing+Examiner/NW+University+Master+Plan+HE\\$!2bHCC+Packet.pdf](https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Hearing+Examiner/NW+University+Master+Plan+HE$!2bHCC+Packet.pdf)

RESOLUTION. R-5400

A RESOLUTION OF THE CITY OF KIRKLAND APPROVING A PROCESS IIB PERMIT AS APPLIED FOR IN DEPARTMENT OF PLANNING AND BUILDING FILE NO. ZON16-02063 BY NORTHWEST UNIVERSITY, LOCATED WITHIN A PLANNED AREA 1 ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PROCESS IIB PERMIT SHALL BE SUBJECT.

1 WHEREAS, the Department of Planning and Building has received
2 an application for a Process IIB permit, filed by Northwest University,
3 the owner of said property described in said application and located
4 within a Planned Area 1 zone; and

5 WHEREAS, pursuant to the City of Kirkland's Concurrency
6 Management System, KMC Title 25, a concurrency application was
7 submitted to the City of Kirkland, reviewed by the responsible Public
8 Works official, the concurrency test was passed, and a concurrency test
9 notice issued; and

10 WHEREAS, pursuant to the State Environmental Policy Act (SEPA),
11 RCW 43.21C, and the Administrative Guidelines and local ordinances
12 adopted to implement it, the City of Kirkland performed a SEPA review
13 for the application; and

14 WHEREAS, the SEPA environmental checklist and determination
15 have been available and accompanied the application through the entire
16 review process; and

17 WHEREAS, the Process IIB application was submitted to the
18 Hearing Examiner who held hearing thereon at her meetings of May 14,
19 2019; June 11, 2019 and August 15, 2019; and

20 WHEREAS, the Hearing Examiner after her public hearing and
21 consideration of the recommendations of the Department of Planning
22 and Building did adopt certain Findings, Conclusions, and
23 Recommendations and did recommend approval of the Process IIB
24 permit subject to the specific conditions set forth in said
25 recommendation; and

26 WHEREAS, one condition of the recommendation is that the
27 University may enter into an agreement with the City regarding
28 managing the sports fields for use by entities other than the University,
29 however, the City has no obligation to enter into such an agreement but
30 may do so at its sole discretion; and

31 WHEREAS, the City Council, in an open meeting, did consider the
32 environmental documents received from the responsible official,
33 together with the recommendation of the Hearing Examiner.

34 NOW, THEREFORE, be it resolved by the City Council of the City
35 of Kirkland as follows:

36 Section 1. The findings, conclusions, and recommendation of the
37 Hearing Examiner as signed by the Hearing Examiner and filed in the
38 Department of Planning and Building File No. ZON16-02063 are adopted
39 by the Kirkland City Council as though fully set forth herein.

40 Section 2. The Process IIB permit shall be issued to the applicant
41 subject to the conditions set forth in the recommendations hereinabove
42 adopted by the City Council.

43 Section 3. Nothing in this resolution shall be construed as
44 excusing the applicant from compliance with any federal, state, or local
45 statutes, ordinances, or regulations applicable to this project, other than
46 as expressly set forth herein.

47 Section 4. Failure on the part of the holder of the permit to
48 initially meet or maintain strict compliance with the standards and
49 conditions to which the Process IIB permit is subject shall be grounds
50 for revocation in accordance with Ordinance 3719, as amended, the
51 Kirkland Zoning Ordinance.

52 Section 5. Notwithstanding any prior recommendation given by
53 the Houghton Community Council, the subject matter of this Resolution
54 and the Process IIB permit herein granted are, pursuant to Ordinance
55 2001, subject to the disapproval jurisdiction of the Houghton
56 Community Council or the failure of said Community Council to
57 disapprove this resolution within sixty days of the date of the passage
58 of this resolution.

59 Section 6. A complete copy of this resolution, including findings,
60 conclusions and recommendations adopted by reference, shall be
61 certified by the City Clerk who shall then forward the certified copy to
62 the King County Department of Assessments.

63 Section 7. A copy of this resolution, together with the findings,
64 conclusions, and recommendations herein adopted shall be attached to
65 and become a part of the Process IIB permit.

66 Passed by majority vote of the Kirkland City Council in open
67 meeting this __ day of _____, 2019.

68 Signed in authentication thereof this __ day of _____, 2019.
69

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

**CITY OF KIRKLAND HEARING EXAMINER
FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION**

**Northwest University Master Plan
Process IIB Review, ZON16-02063**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

September 19, 2019

1. FINDINGS OF FACT

1.1 Proposal. Master Plan approval request for Northwest University campus improvements.

Applicant: Northwest College Assembly of God
Represented by Mr. Drivdahl, Gelotte Hommas Architects

Site Location: Northwest University Campus
5520 108th Avenue NE, Kirkland, WA

Property Owner: Northwest College Assembly of God

1.2 Zoning. Northwest University operates college and graduate degree programs on a 55 acre campus within the City of Kirkland.¹ The site is zoned Planned Area 1, or PLA-1, with an Institutional Comprehensive Plan designation, authorizing the use subject to Master Plan approval. As directed by code, the University requested an updated Master Plan.

1.3 Project. The Master Plan covers growth over the next 20 years. It plans for 364,910 square feet of building improvements and parking,² to serve 2,000 students by 2037.³ These projects are planned over 13.2 acres:

- Replacement of Gymnasium Pavilion, with added Parking Garage;
- Replacement of Welcome Center, with added Parking Garage;
- Replacement of Ness Academic Center;
- Residence Hall (300 beds), with 60' height limits;
- Chapel Additions;
- Fitness Center/Parking Garage;
- Athletic Field Improvements (AstroTurf to Replace Grass; Lighting, South Field Only; Field House and Bleachers); and,
- Six Court Indoor Tennis Center (with 50' foot height limits) and Parking Garage.

¹ Exhibit A (Staff Report, May 9), pg. 5 (54.42)

² Exhibit A (Staff Report, May 9), TIA, pg. 5 (260,530 square feet of building improvements only).

³ Approximately current enrollment includes, 1,230 students (900 undergraduates and 300 graduate/adult evening class students), with 680 students living on campus. Exhibit A (Staff Report, May 9), TIA, Introduction.

The Applicant has since accepted Houghton Community Council recommended conditions on athletic field use and replaced the tennis center with an academic building.

1.4 SEPA Review. The City Planning and Building Department completed SEPA review, issuing a Mitigated Determination of Non-Significance.⁴ The MDNS was appealed to the Hearing Examiner and has been upheld.

1.5 Surrounding Area. Residential neighborhoods with single family homes surround much of the site, with RS 8.5 and RS 7.2 zoning. To the southwest is Puget Sound Adventist Academy, and to the south, Emerson High School. The property slopes downward east to west, with I-405 to the east.

1.6 Hearing. The public hearing opened on May 14, with continuances to June 11, and August 15. On the first day, after various procedural issues were addressed, City Staff summarized the project and the Applicant provided a power point presentation, with testimony from several experts, including its civil engineer, traffic engineer, landscape architect, lighting engineer, architect, and the University President.

Public testimony took up the remainder of the evening, and much of hearing day two, with students, neighbors, and other local residents testifying. Comment on the first day largely supported the proposal, with a mixture of support and concerns raised on day two. Local residents expressed both support and concerns, including on traffic, noise (particularly from sports field use), and aesthetics (particularly on the tennis facility).

Students who testified spoke primarily to their personal University experiences and included perspectives from both local and international students. Student support was widespread. Some hailed from countries where severe economic conditions and restrictions on educating women hampered their opportunities; University support has been critical in obtaining an education. Numerous local students also spoke to how important the University has been for them in achieving their goals.

In response to the identified concerns, voiced in both written comment and in testimony, the Houghton Community Council identified several questions for the Applicant to address before its final deliberations.

These questions were addressed through a Staff Memo, with attachments, including additional mitigation the Applicant had agreed to accept. The mitigation is significant. The tennis center was removed from the proposal and replaced with an academic building and sports field use restrictions were added.

The Council completed deliberations on day three, voting to recommend approval, with conditions from the August 7 and May 9 Staff Reports, and its own added conditions.

⁴ Exhibit A (Staff Report, May 9, 2019), pgs. 8-9 and Appendix 9, which includes the MDNS, Staff Memo on SEPA review, SEPA Checklist, traffic analysis, and Applicant's acceptance of conditions.

1.7 Administrative Record. The Administrative Record consists of several lengthy packets of materials, including Staff Reports, Applicant submittals, written public comments, documentation of tribunal member impartiality, and SEPA review materials. The documents are on file with the Planning Department; copies were e-mailed or provided in paper form to the Examiner and Council.

The written record remained open through August 15, 2019, with public comment submittals made throughout the hearing process. All materials submitted were admitted. The record is voluminous, but to help with organization was grouped into several categories:

- A. Planning Department Packet⁵ (May 9, 2019)
- B. Public Comments
- C. Applicant's Power Point
- D. Applicant Mitigation (cut-through traffic)
- E. Applicant Mitigation (field use coordinators)
- F. Transportation Analysis
- G. Additional Public Comments
- H. Conflict Materials
- I. Planning Department Packet (August 7, 2019)

1.8 Initial Public Comment. The initial public comment period ran for a month in 2016. 80 comments supported the application; 28 raised concerns. The Staff Report summarizes the most commonly identified concerns (traffic; tennis center, use of campus facilities by outside groups, and street parking) and responded.⁶ The Houghton Community Council has since recommended conditions addressing athletic field use and replacement of the tennis facility with an academic building. The Applicant has accepted these conditions.

1.9 Site History. Northwest University has occupied the site since 1958, with the first Master Plan approved in 1979. In 1985 the Master Plan was amended to allow for the Seattle Seahawks training facility, which occupied 12 acres on the east. Master Plan updates were approved in 1995, 2001, and in 2008. With the 2008 amendment, the University was approved to occupy the former football training facility, with the practice fields used for Northwest University athletic field events and intramural activities.

1.10 Landscaping and Tree Retention. The campus environment is landscaped, with trees and grass throughout. Given the clustered approach to development, nearby residents regularly walk the campus. With the Master Plan, this environment will be maintained. The improvements adhere to the clustered approach to development, and a Tree Retention Plan⁷ was prepared consistent with City requirements to protect significant trees, with subsequent development reviewed for consistency with retention requirements.⁸ To further enhance the

⁵ Mr. Leavitt made a correction to the Staff Report at § 2, pg. 3, noting the increased height limit would be 40 feet from average building elevation for the tennis center, a ten foot increase for structures within 100' of boundary. With the Community Council Recommendation, the tennis center was removed.

⁶ Exhibit A (Staff Report, May 9, 2019), pgs. 7-8. *See also* Applicant Response at Attachment 8.

⁷ Exhibit A (Staff Report, May 9, 2019), pg. 22 and Attachment 18.

⁸ Ch. 95 KZC.

campus environment, the University has proposed day-lighting a piped stream traversing a portion of the site and completing buffer restoration.⁹

1.11 Transportation. Transportation impacts were reviewed through a Traffic Impact Analysis, or TIA, and mitigation imposed through SEPA, as detailed in Appendix 1. The project is contributing funds to several transportation improvement projects, dedicating frontage to improve traffic circulation, constructing a stop-light, and taking other measures to address its impacts and improve the operations of affected intersections. The Community Council Recommendation builds on these measures, with additional mitigation to address cut-through traffic, including further analysis and monetary mitigation. This is although the Traffic Impact Analysis did not find there would be significant cut-through traffic from the Master Plan.¹⁰

1.12 Parking. Parking will be increased to support the growing student population. The Department reviewed the parking analysis, which demonstrated adequate parking is present. 2037 peak parking demand was estimated 1,040 vehicles, with 1,344 stalls available.¹¹ The TIA assessed demand from students, faculty, public use of the sports fields, and tennis center. With the removal of the tennis center and field use restrictions, the analysis is conservative. Even so, a SEPA condition requires that the Applicant submit a parking management plan for staff review and approval either with the first building or public athletic field use.

1.13 Lighting. Light poles up to 80 feet tall will be installed on the south soccer field. The lights are about 350 feet from the north property line and 260 feet from the nearest residences to the east. As part of the building permit for the lights, the applicant will submit a lighting plan and photometric site plan for Planning Official approval.¹² The Applicant must select, place, and direct light sources, so glare, to the maximum extent possible, does not extend to adjacent properties or right-of-way.¹³ The Applicant's lighting engineer described lighting design and operation, addressing questions on same at the hearing, and providing written analysis.¹⁴

1.14 Noise. The project will comply with City noise code requirements, with the athletic field subject to extensive restrictions, beyond what is now required for the use. These restrictions are summarized below, under Neighborhood Impacts. Analysis was prepared in response to Community Council questions.

The Noise Study concludes that public use of the fields for soccer practices/games and similar sports activities will comply with City of Kirkland and WAC noise standards. It also demonstrates, in the professional opinion of SSA Acoustics, that there will be no significant adverse noise impacts associated with the Master Plan proposal.¹⁵

The Applicant offered to install an acoustical barrier between the north field edge and the vegetated buffer along the north property line, which would reduce noise by an added 10-12

⁹ Exhibit A (Staff Report, May 9, 2019), pgs. 20-21.

¹⁰ Exhibit I (Staff Report, August 7), Attachment 1, pg. 11 (TIA found 11 cut-through vehicles during AM and PM peak hours; rate was doubled for purposes of determining future impacts and mitigation).

¹¹ Exhibit A (Staff Report, May 9), TIA, Table 21.

¹² KZC 115.85; Exhibit A (Staff Report, May 9), pgs. 19-20.

¹³ KZC 115.85.

¹⁴ Exhibit I (Staff Report, August 7), Attachment 1, pgs. 8-9.

¹⁵ Exhibit I (Staff Report, August 7), Attachment 1, pg. 11.

decibels.¹⁶ However, as neighbors to the north did not desire it, this offer was not incorporated into the Community Council Recommendation.

1.15 Code Revisions. Approval of the proposal would amend Ch. 45.60 RZC, which contains regulations specific to this site. Revisions to address the Master Plan are detailed in the Staff Reports.¹⁷ Besides these requirements, the Master Plan is subject to the City's other development standards, which further address project impacts, and includes requirements on landscaping, tree protection, parking, pedestrian walkways, signage, construction equipment operation times, and noise levels.¹⁸

1.16 Comprehensive Plan. The City's development regulations address Master Plan impacts, so the Comprehensive Plan need not be used to address any regulatory gaps. However, the Master Plan is consistent with the Comprehensive Plan designation. It also follows policies providing for early community involvement in developing an expansion plan. With a project website, open houses, stakeholder meetings and neighborhood meetings, coupled with three evenings before the Houghton Community Council and Examiner, the project has been vetted.

Other policies are also met, including those on master plan boundaries and minimizing impacts on surrounding single-family neighborhoods. Consistent with the Comprehensive Plan, this has been accomplished through buffering, measures to address cut-through traffic, minimizing noise and lighting impacts, regulating height and building mass/placement, and addressing landscaping, vehicular access, and transportation impacts through environmental review, development regulations, and the extensive review processes.¹⁹

1.17 Neighborhood Impacts. With the Staff Report and Houghton Community Council's recommended conditions, coupled with the City's regulatory structure, the new campus improvements introduce improvements consistent with the site's historic uses. Development is mitigated with setbacks, landscaping, height limits, project design, and parking requirements, along with measures governing athletic field use, which prescribe:

- Operation times;
- The entities which may utilize the field, establishing an order of preference with University use at the top of the hierarchy and putting the City in charge of scheduling public field use;
- Locating lighting only on the south field, away from single family homes on the north;
- Air horns, which are prohibited;
- Speaker requirements, limiting them to the south field and prohibiting their use by non-University groups;
- Field Use Coordinator requirements, who must be retained to ensure restrictions are enforced, including morning and evening operational requirements;
- Twice yearly reporting; and,
- Quarterly maintenance inspections.²⁰

¹⁶ Exhibit I (Staff Report, August 7), Attachment 1, pg. 11.

¹⁷ Exhibit A (Staff Report, May 9), pgs. 13-15, Appendix 13.

¹⁸ Exhibit A (Staff Report, May 9), Appendix 3 (Development Standards).

¹⁹ Exhibit A (Staff Report, May 9), pgs. 22-23; Recommendation Appendixes 1-4 (identifying added mitigation).

²⁰ Appendix 4 (Houghton Community Council Recommendation); Exhibit I (Staff Report, August 7), Attachment 1, pg. 10.

With these measures, and as the Master Plan is designed, the overall campus character will be retained and the use will fit in with the surrounding neighborhood, protecting the public health, safety, and welfare. Overarching positive attributes related to public health, safety, and welfare include:

- Clustering development to protect open space;
- Providing ample parking and stronger pedestrian connections on campus;
- Updating and improving many of the aging facilities on campus;
- Providing ample buffering to neighboring properties;
- Opening campus facilities to public use and enjoyment;
- Improving streetscapes;
- Improving stormwater treatment;
- Improving ecological function of College Creek;
- Improving Emergency Shelter Facilities on Campus.²¹

As mitigated, the proposal will not introduce new facilities or activities which would be detrimental to neighborhood character. The mitigation imposed is extensive and in certain instances more than is typical. However, project design has thoughtfully evolved throughout the review process to address neighborhood compatibility, with mitigation tailored to ensure public concerns were addressed.

1.18 Staff Reports and Houghton Community Council Recommendation, Incorporation. Except as modified, the Houghton Community Council and the May 9 and August 7, 2019 Staff Reports are incorporated by reference.

2. CONCLUSIONS OF LAW

2.1 The Hearing Examiner conducts a public hearing and issues a recommendation in a Process IIB review. As the proposal is within Houghton Community Council jurisdiction, the Community Council also makes a recommendation, which the Examiner has received and considered. The City Council then makes a final decision on the Master Plan.²²

2.2 The proposal is only approved if the Applicant demonstrates consistency with these criteria:²³

- a. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
- b. It is consistent with the public health, safety and welfare.²⁴

The project follows City development regulations.²⁵ No regulation was identified during the extensive review process which could not be met. No area was identified lacking regulatory coverage, but the project also follows the Comprehensive Plan, which supports appropriately

²¹ Exhibit C (Applicant Power Point).

²² Ch. 152 KZC.

²³ KZC 152.55 (applicant has the burden of proof).

²⁴ KZC 152.70(3).

²⁵ Exhibit A (Staff Report, May 9), *see also* Appendix 3, identifying various development standards.

sited University facilities. The Master Plan has been heavily mitigated to ensure compatibility with the surrounding residential neighborhood. The proposed Master Plan revisions support the existing school use consistent with the public health, safety, and welfare, and should be approved.


2.3 These conclusions are based on the findings above.

RECOMMENDATION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, recommends approval of the requested Master Plan to the City Council, subject to the conditions outlined in the Houghton Community Council Recommendation, which incorporates conditions from the May 9 and August 7, 2019 Staff Reports, except as modified by its Recommendation.

If a party wishes to challenge this Recommendation, the challenge must be timely filed and served, with required fees paid, in accordance with Ch. 152.85 KZC procedures. These procedures require that the challenge be made within seven calendar days of Recommendation distribution.

Entered September 19, 2019.


City of Kirkland Hearing Examiner Pro Tem
Susan Elizabeth Drummond

Appendix 1

MDNS Mitigation Measures

1. The University shall contribute \$15,000 to the City of Kirkland Neighborhood Traffic Control Program to be used to mitigate neighborhood traffic impacts in the Houghton Neighborhood in the vicinity of Northwest University.
2. The University shall improve the intersection of 108th Avenue NE/NE 53rd Street to include a new traffic signal and associated intersection improvements (curb ramp, crosswalk, etc.) to the City of Kirkland's standards.
3. In lieu of constructing half-street improvements along the 108th Avenue NE frontage to include a dedicated bus lane as described in the Phase II Transit Queue Jump improvement of the 108th corridor project (PT 0006), the City will require a width of up to 12-feet of right-of-way (ROW) dedication (approximately 880-feet) along the 108th Avenue NE University properties.
4. The University shall sell a width of up to 12-feet of frontage at 6710 108th Avenue NE for the construction of the Phase I Transit Queue Jump improvement of the 108th corridor project (PT 0005).
5. The University shall contribute a proportional share to the intersection improvement of Phase I Transit Queue Jump improvement of the 108th corridor project (PT 0005) not-to-exceed \$266,306 or 14 percent of the total project cost (whichever is lower).
6. The University shall contribute a proportional share to the intersection improvement of Phase II Transit Queue Jump improvement of the 108th corridor project (PT 0006) not –to exceed \$175,606 or 8 percent of the total project cost (whichever is lower).
7. The University shall contribute a proportional share to the intersection improvement of the NE 68th Street Intersection Improvements/Access Management (TR 0117 004) not-to-exceed \$241,214 or 14 percent of the total project cost (whichever is lower).
8. The University shall submit a parking management plan for staff review and approval prior to final building permit for the first building greater than 5,000 square feet or which public use of the athletic fields.
9. The University will create a parking management plan and monitor events that are anticipated to result in 90 percent of the campus parking supply being occupied.

Appendix 2

Applicant's Added Mitigation/Clarification

Cut-Through Traffic Evaluation and Mitigation. In recognition of the fact that it is difficult to predict future levels of cut-through traffic associated with development of the Master Plan projects, any building permit application proposing a building that exceeds 5,000 sq. ft. or provisions of public use sports field 3-years after the approved Master Plan will include an analysis of existing and project cut-through traffic impact on non-arterial streets related to Northwest University vehicles. If cut-through traffic impacts are identified that are projected to worsen as a result of the proposed project, Northwest University shall be required to pay a mitigation fee to the City's Neighborhood Traffic Control Program that is proportionate to its impacts, not to exceed \$15,000 per Master Plan project over 5,000 sq. ft. or public use of the sports field for the life of the Master Plan.²⁶

Field Use Coordinators. Northwest University will hire "Field Use Coordinators" whose responsibilities will include ensuring that the requirements of the Field Use agreement are enforced (including the morning and evening timing restrictions) and logging and responding to complaints of any kind. The University's Athletic department will be required to submit twice yearly reports to the City summarizing all complaints received and how the complaint was handled. Additional mitigation measures could be considered by the City if substantiated by the reports.²⁷

²⁶ Exhibit D.

²⁷ Exhibit E.

Appendix 3**Staff Report (May 9, 2019)
Recommended Conditions****(Conditions Taken Directly from Staff Report;
References to Conclusions are to Staff Report Conclusions)**

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 3, Development Standards, is provided in this report to familiarize the applicant with some of the additional development regulations currently in effect. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development regulation in Attachment 3, the condition of approval shall be followed.
2. Staff recommends approval of the proposed changes to the special regulations. Attachment 13 outlines the changes that would need to be made to the applicable special regulations (see Conclusion II.E.1).
3. As part of the building permit submittal for the tennis center, the applicant shall submit a final use agreement that ensures that the facility will be used by the University a majority of the time. Additionally, the agreement shall ensure that the running and walking track will be free and open to all members of the Houghton community as well as students, faculty, staff and guests of Northwest University (see Conclusion II.E.2).
4. Prior to or as part of the building permit submittal for the tennis center, the applicant shall submit plans that show compliance with the KZC Sections 92.30(2), 92.30(3), 92.30(4), 92.30(5). With regard to the minimum requirements of KZC 92.30(3), the minimum required modulation depth of 20' be reduced to 6' (see Conclusion II.E.2).
5. Prior to use of the athletic fields by outside groups or organizations, the applicant shall:
 - a. Submit a final use agreement that incorporates the polices outlined in the applicant's submittal (see Conclusion II.E.3). Additionally, the use agreement shall incorporate the following requirements:
 1. The use of air horns (and similar noise making devices) are not allowed.
 2. The use of speakers will be limited to the southern field and must be directed to the south.
 3. If there appears to be unauthorized usage of the fields, neighbors shall contact the NU Security office at 425.889.5500 to report the potential unauthorized use so it can be investigated promptly.

4. Institute a quarterly maintenance inspection led by a member of the senior leadership team of NU (currently the CFO) with reporting requirements to remove and replace dead or dying plantings, mulch and otherwise care for the existing plantings in the buffer and insure existing plantings are properly irrigated and cared for.

b. Install new fencing to fully enclose the northern landscape buffer (with the only access being through locked maintenance gates) and install 30-foot netting along the northern edge of the fields to control errant (see Conclusion II.E.3).

6. As part of the building permit for the field lights, the applicant shall submit a lighting plan and photometric site plan for approval by the Planning Official (see Conclusion II.E.4).

7. Student enrollment shall be limited to 1,200 FTE's for on-campus undergraduate resident students and an overall enrollment on campus (including undergraduates, graduate, evening and weekend degree and commuter students) of 2,000 FTE's (see Conclusion II.E.5).

8. As part of the building permit submittal for the Welcome Center (Phase 3), the applicant shall submit a critical area report and plan that complies with the requirements of KZC Section 90.75.3. The applicant shall fund a peer review of the critical area report by the City's consultant (see Conclusion II.E.6).

9. As part of the grading permit for the athletic field improvements (Phase 5), the applicant shall submit a stream buffer restoration plan that complies with the vegetative buffer standards contained in Kirkland Zoning Code section 90.130. The applicant shall fund a peer review of the vegetative buffer plan by the City's consultant (see Conclusion II.E.6).

10. Prior to issuance of the first building permit application, the applicant shall submit a final Transportation Management Plan for review, approval, and recording by the City. The TMP shall distribute free bus passes to all on campus employees and students (see Conclusion II.E.7).

11. As part of any development permit for the campus, the applicant shall submit a tree retention plan for review by Staff (see Conclusion II.E.8).

12. The Notice of Approval shall be valid until the December 31, 2039 to allow the construction of all phases currently being proposed (see Conclusion V.B).

Appendix 4

Houghton Community Council Master Plan Recommendation

and

Staff Report (August 7, 2019), w/out attachments



Houghton Community Council
CITY OF KIRKLAND
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Susan Drummond, Hearing Examiner Pro Tem

From: _____
Rick Whitney, Chair, Houghton Community Council

Date: September 9, 2019

Subject: NORTHWEST UNIVERSITY MASTER PLAN, ZON16-02063
RECOMMENDATION OF HOUGHTON COMMUNITY COUNCIL

Recommendation to the Hearing Examiner:

After consideration of the testimony and record presented at the public hearings for file number ZON16-02063 held on May 14th, June 11th and August 15th, the Houghton Community Council (HCC) concurs with the findings, conclusions, and recommendations contained in the Staff Advisory Report dated May 9, 2019 and subsequent memo dated August 7, 2019, except as modified below. In addition, based on review of the record and testimony at the public hearing, the Houghton Community Council recommends approval based on the following additional and modified conditions of approval:

Recommendation 1

Support the conversion of the Tennis Center to an Academic Building, subject to following conditions:

- The academic building shall be limited to 30' above Finished Grade or Existing Grade (whichever is lower) as measured from the center point of the West Facade for a distance of at least 75' East of the Puget Sound Adventist Academy (PSAA) property line. East of this line, the standard and existing building height limits would be applied - specifically 30' ABE within 100' of the campus boundary and 40' ABE for portions exceeding 100' from the campus boundary.
- The proposed 50-foot buffer along NE 53rd Street and rain garden proposed for the Tennis Center shall be retained with the Academic Building.

As a result of this recommendation, Staff Recommendation Condition 3 would be eliminated and Condition 4 would be revised to the following:

- Prior to or as part of the building permit submittal for the academic building, the applicant shall submit plans that show compliance with the KZC Sections 92.30(2), 92.30.(3),

92.30(4), 92.30(5). With regard to the minimum requirements of KZC 92.30(3), the minimum required modulation depth of 20 feet may be reduced to 6 feet.

Recommendation 2

As part of the building permit submittal for any building permit application that exceeds 5,000 square feet or prior to any public use of sports fields, the applicant shall conduct a cut-through traffic analysis for Public Works to review. Prior to study, the University's transportation consultant shall provide the scope of analysis and methodology to the City Transportation Engineer to review and approve. The cut-through study shall provide data to identify the Northwest University cut-through traffic as well as non-university cut-through traffic and speed data for cut-through routes. If cut-through traffic impacts are identified and traffic calming is determined to be necessary by the City, Northwest University shall be required to pay a mitigation fee to the City's Neighborhood Traffic Control Program that is proportionate to its impact, not to exceed \$15,000 per Master Plan project over 5,000 square feet for the life of the Master Plan and \$30,000 for public use of the sports field. The mitigation fee amounts shall be adjusted for yearly inflation using the Consumer Price Index (CPI) for the Seattle-Tacoma-Bellevue area starting in October of 2020, adjusted annually and run through the expiration of the Master Plan (December 31, 2039).

Recommendation 3

Staff Recommendation Condition 5 shall be revised to the following:

- Use of the University's athletic fields shall be limited to the following and use shall be prioritized in this order:
 - Tier 1A – Northwest University games, practices, and intramural uses.
 - Tier 1B – Northwest University and Northwest University Affiliated Groups sports camps and recruiting efforts; ancillary use by guests who have engaged NU for conference services; and ancillary use by affiliated groups, to include local, non-profit schools with academic or athletic relationships with NU.
 - Tier 2 – City-sponsored youth leagues
 - Tier 3 – Local, non-profit youth organizations ("local" is defined as a group comprised of 65% or greater Kirkland residents)
 - Tier 4 – School (local elementary, middle, and high) and other non-profit youth organizations
 - Tier 5 – For-profit youth organizations
 - Adult league sports shall not be permitted
 - Other than Tier 1A use, the fields shall be limited to practice, with no games allowed for outside organizations (Tier 1B thru Tier 5)
- Prior to use of the athletic fields by Tier 2 thru 5 groups or organizations, the applicant shall:
 - a. Submit a final agreement with the City of Kirkland Department of Parks and Community Services that includes the following:
 1. The City will schedule all public field use, subject to the priority list. The City has discretion to limit or adjust public field use as necessary to address adverse impacts.
 2. The use of air horns (and similar noise making devices) are not allowed.
 3. The use of speakers shall be limited to the southern field and must be directed to the south. No outside organizations (Tier 2 thru Tier 5) are allowed to use speakers.

4. Northwest University shall hire "Field Use Coordinators" whose responsibilities will include ensuring that the requirements of the Field Use agreement are enforced (including the morning and evening timing restrictions) and logging and responding to complaints of any kind. The University's Athletic department will be required to submit twice yearly reports to the City summarizing all complaints received and how the complaint was handled. Additional mitigation measures may be required by the City if substantiated by the reports.
5. Institute a quarterly maintenance inspection led by a member of the senior leadership team of NU (currently the CFO) with reporting requirements to remove and replace dead or dying plantings, mulch and otherwise care for the existing plantings in the north athletic field buffer and insure approved plantings are properly irrigated and cared for. The applicant shall submit a yearly report to the City to ensure that the buffer is maintained pursuant to KZC Section 95.51.

Recommendation 4:

The proposed sound wall along the north edge of the athletic field shall not be installed.

Recommendation 5:

Athletic Field use shall not begin until after 8am and must end prior to 9pm. Northwest University individual coaching and use of the fields for fitness training of athletes can occur before 8:00am, as long as conversations and noise are kept to a minimum. Outside community use will be limited to no more than 8 hours per day.

Recommendation 6:

Lights are allowed on the southern field only. Lights will be for evening use only and will be programmed to turn off at 9:30pm. Lights will be LED lights (the Musco Light-Structure Green LED System proposed by the applicant) and focused inward, toward the field, to minimize light and glare impacts on adjacent properties. Field lighting will only be in operation when fields are in use. Field lighting controls will be in a central location, only for operation by the NU Facility Manager and NU staff.

Recommendation 7:

Prior to issuance of each building permit submittal for all buildings, the applicant shall submit to the City the name and contact information for the project's Construction Coordinator. The Construction Coordinator shall be responsible for communicating with the community about construction plans and activities and responding to inquiries or complaints. Additionally, the applicant shall post the contact information for the Construction Coordinator onsite in location visible to the general public.



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MEMORANDUM

To: Houghton Community Council
 Kirkland Hearing Examiner

From: Tony Leavitt, Senior Planner
 Jeremy McMahan, Planning and Building Deputy Director
 Thang Nguyen, Transportation Engineer

Date: August 7, 2019

Subject: ZON16-02063, Northwest University Master Plan, Response to Questions from June 11th Hearing

During the June 11, 2019 Public Hearing for the Northwest University Master Plan, the Houghton Community Council requested additional information from staff and the applicant to address issues that were raised during the public hearings on May 14th and June 11th.

The issues raised during the hearing and the responses from staff are summarized below. The applicant's responses are included in Attachment 2.

Public Athletic Field Use

As part of the Master Plan, the applicant is proposing to open the athletic fields up for public use. During the public hearings, the Houghton Community Council had concerns about noise impacts associated with the field, including the use of speakers; traffic and parking impacts associated with the public field use; and ensuring community use of the fields.

Staff Response:

***Noise:** The applicant has submitted a Noise Study (see Attachment 1, Exhibit C) to address the concerns regarding noise impacts. The Noise Study concludes that public use of the fields for soccer practices/games and similar sports activities will comply with City of Kirkland and WAC noise standards. It also concludes, in the professional opinion of SSA Acoustics, that there will be no significant adverse noise impacts associated with the Master Plan proposal.*

Additionally, the applicant is proposing to construct an acoustical barrier (see Attachment 1, Exhibit D) along the northern edge of the fields to further mitigate any potential noise impacts on the neighboring property owners. The applicant is willing to accept a condition requiring construction of the acoustical barrier along the northern property line.

***Traffic and Parking:** The applicant's transportation engineer has provided additional information about the assumptions that were made in the transportation impact analysis related to public use of the field (see Attachment 1, Exhibit E). The memo concludes the following:*

- *The worst-case transportation impacts of public use of the field would occur during the weekday PM peak hour when the University is in full session. As a practical matter, Northwest University (not third parties) would be expected to use the fields at those times, but the traffic analysis evaluated the worst-case scenario to understand the full range of anticipated impacts. Any public use of the fields on weekends would occur when traffic on the campus and surrounding transportation system traffic is low, so transportation impacts on weekends would be less than studied in the environmental review.*
- *In regard to parking, the parking analysis shows 355 available parking spaces at 5 p.m. with public use of the field. The available parking continues to increase after 5 p.m.; therefore, even if there were an overlap with additional use of the field, there would still be parking available. The University will use parking management strategies to ensure that there is available parking proximate to the fields when public use will occur. These strategies may include assigning students and employees to other parking lots to minimize parking in fields near the lots.*

Community Use of Fields: In order to address the HCC concerns regarding the community use of the fields, the applicant had a meeting John Lloyd, City of Kirkland Parks and Community Services Deputy Director (see Attachment 1, Exhibit B). In their July 31st memo to the HCC, the Parks and Community Services Department confirmed the City's interest in the use of the fields by the City and community organizations and outlined the City's Interlocal Agreement with the Lake Washington School District (LWSD). That agreement employs a priority system to ensure that local non-profit uses are prioritized above other uses when scheduling fields. The University has proposed an additional permit condition to utilize a similar tiered system for field use and willingness to enter into an ILA with the City for the City to schedule all non-University field use similar to the arrangement with the LWSD.

Traffic and Parking Impacts

A number of questions related to transportation and parking analysis and impacts were raised at the public hearing. Issues included trip generation of the proposed uses, parking accommodations and management, effectiveness of the existing Transportation Management Program and how will the new one be improved, addressing cut through traffic, traffic signal location along 108th Avenue NE, and the Master Plan relationship to the 6th Street Corridor Study.

Staff Response:

Trip Generation: The applicant's transportation engineer has provided the following table showing a summary of the anticipated total Master Plan trip generation in 2022 and 2037 by the proposed land uses (see Attachment 1, Exhibit E). The land use category "Northwest University Campus" represents the vehicle growth anticipated with the proposed Master Plan buildings and the anticipated increase in campus population associated with the Master Plan development. This Northwest University Campus vehicle growth is equated to a student count; however, it is inclusive of all traffic for all proposed campus uses.

Table 1. Master Plan Estimated New Vehicular Trip Generation by Horizon Year

Land Use	Size	Trip Rate ^{1,2}	2022			2037		
			Total	In	Out	Total	In	Out
<i><u>Weekday Daily</u></i>								
Northwest University Campus ³	+370 students (2022) +770 students (2037)	4.22 per student	1,560	780	780	3,250	1,625	1,625
Tennis Center ³	6 courts	38.70 per court	250	125	125	250	125	125
Public Sports Field Use	-	=	384	192	192	384	192	192
Total			2,194	1,097	1,097	3,884	1,942	1,942
<i><u>Weekday AM Peak Hour</u></i>								
Northwest University Campus	+370 students (2022) +770 students (2037)	0.23 per student	85	51	34	177	106	71
Tennis Center	6 courts	3.58 per court	22	11	11	22	11	11
Public Sports Field Use	-	=	0	0	0	0	0	0
Total			107	62	45	199	117	82
<i><u>Weekday PM Peak Hour</u></i>								
Northwest University Campus	+370 students (2022) +770 students (2037)	0.32 per student	118	59	59	246	123	123
Tennis Center	6 courts	3.58 per court	22	12	10	22	12	10
Public Sports Field Use	-	=	192	160	32	192	160	32
Total			332	231	101	460	295	165

1. Site specific trip rates calculated based on field observations for the campus daily and peak hour conditions and Eastside Tennis Center peak hour conditions. Daily trip rate for tennis center based on Institute of Transportation Engineers Trip Generation, 9th Edition tennis/racket club land use (#491).

2. Trip generation for the sports fields is based on use of the fields for youth soccer.

3. Trip generation rounded up to the nearest 5 vehicles.

***Parking Accommodations and Management:** In regard to parking accommodation and management, the applicant's analysis shows a minimum of approximately 300 available (surplus) spaces on-campus with complete build out of the proposed Master Plan, including the tennis center and public use of the fields. The available number of parking stalls continues to increase after 5:00 p.m. as the number of classes decreases and commuter students and employees are no longer on-campus. Given the available parking, additional activities/special events can be accommodated in the evening hours on weekdays.*

Northwest University will develop a parking and event management plan that will be approved by the City prior to any building permit issuance or public use of the fields under the proposed Master plan. The general framework and key elements of the Parking Management Plan will include items such as:

- *Assign the campus population, such as residents and commuters, to specific parking lots on campus to manage available parking and ensure parking is open near the fields or other areas where public use may occur.*
- *Manage event schedules to minimize concurrent high activity events on-campus.*
- *Designate specific event parking lots.*
- *Provide way-finding signage to direct visitors to specific parking facilities and pick-up/drop-off area.*
- *Active enforcement of parking restrictions.*
- *Post no parking sign along NE 53rd Street during events and visually monitor neighborhood parking during the event.*
- *Designate a representative from Northwest University to coordinate public use of facilities including parking management associated with the activities.*
- *Provide parking monitors and flagger to direct visitors to on-campus parking lots.*

Transportation Management Program: Thang Nguyen, Transportation Engineer, has outlined in his memo the current and future TMP requirements, the Draft Transportation Management Plan and the Commute Trip Reduction Survey from April of 2017 (see Attachment 2). The current drive-alone rate for employees is 76 percent based on the 2017 Commute Trip Reduction survey.

According to the applicant's transportation engineer, overall driving trips to the campus are less when the total population is considered (students and employees). The campus vehicle counts conducted for the Transportation Impact Analysis (TIA) showed a driving rate of 0.32 vehicles per student headcount during the weekday PM peak hour.

The new TMP that will be required with the Master Plan is anticipated to decrease drive alone rates further by implementing more strategies that have proven to work both locally and nationally. The goal of this TMP shall be that no more than 65 percent of the Northwest University Kirkland Campus commute trips occur by single-occupant vehicles. The goal will apply to both student and employee commuter trips. New strategies being considered for the TMP are:

- *Transit pass subsidy for benefited employees and commuter students*
- *Incentives for benefited employees using alternative modes*

The Master Plan also includes increased on-campus housing, which will assist in decreasing drive alone trips.

Cut Through Traffic: In order to address cut through traffic, the applicant is proposing a condition that with any building permit application proposing a building that exceeds 5,000 sq. ft. or provisions of public use of sports field 3-years after the approval of the Master Plan will include an analysis of existing and projected cut-through traffic impact on non-arterial streets related to Northwest University. If cut through traffic impacts are identified that are projected to worsen as a result of the proposed project, Northwest University shall be required to pay a mitigation fee to the City's Neighborhood Traffic Control Program that is proportionate to its impact, not to exceed \$15,000 per Master Plan project over 5,000 sq. ft. or public use of the sports field for the life of the Master Plan.

The Northwest University Master Plan includes 6 buildings over 5,000 square-feet and public use of the sports field, which would require payment of the cut-through traffic mitigation of \$15,000 each if impacts are identified. The potential cut-through traffic mitigation fee is up to \$105,000. The applicant has provided table showing the costs of various traffic calming devices and the pros and cons of each type. Any traffic devices in the neighborhood would involve a public process involving neighbors impacts by the traffic calming.

The Staff Recommendation for the project includes a condition to install a traffic signal at the intersection of 108th Avenue NE and NE 53rd Street. Some Houghton Community Council Members asked if a signal located at the main entrance to the campus and 108th Avenue NE would be a better location.

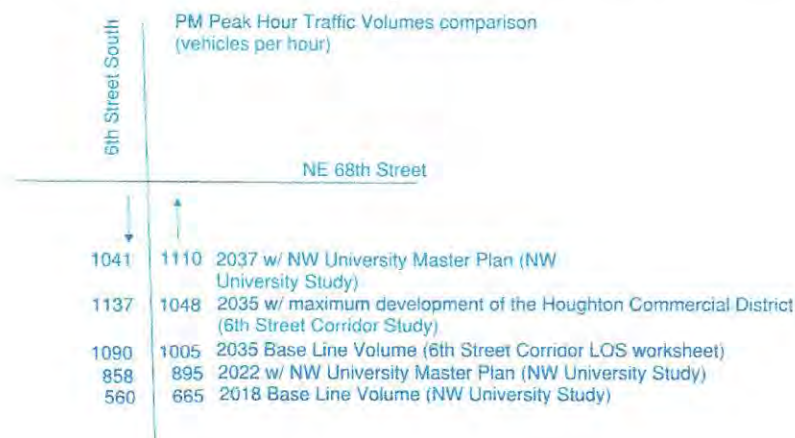
Thang Nguyen states in his memo that the Public Works Department does not support signaling the University's main entrance on 108th Avenue NE instead of the intersection of 108th Avenue NE/NE 53rd Street because it will not alleviate the poor level of service at the intersection of 108th Avenue NE/NE 53rd Street. Furthermore, signaling the campus main entrance will not allow the opportunity to incorporate the crosswalk south of NE 53rd Street into the intersection of 108th Avenue NE/NE 53rd Street to improve crossing safety. The signalization of 108th Avenue NE/NE 53rd Street is a requirement of the current Master Plan and was based on the neighborhood's desire to improve the operation at the intersection. Furthermore, signaling the

University's main entrance will conflict with the City's 6th Street Corridor plan improvement to add a bus lane in that area.

6th Street Corridor Study: Finally, the HCC requested that Staff provide the projected traffic from the 6th Street Corridor Study and the phases of the Master Plan. Thang Nguyen provides the following response:

The figure below provides the PM Peak hour forecasted traffic on 108th Avenue NE for the various scenarios. The 2035 forecasted traffic volumes are from the 6th Street Corridor Study. The Baseline Volume represents the traffic adopted 2035 land use within the City Comprehensive Plan and 2035 with maximum development of the Houghton Community District represents the maximum redevelopment potential of the Houghton Community District added on top of the adopted 2035 land use. More detailed information on traffic growth are provided on page 25, 47, 48, 108 and 114 of the 6th Street Corridor Study.

The 2022 and 2037 traffic volumes are from the Northwest University traffic impact analysis report; these volumes include a 2% per year growth added on top of the existing traffic volumes plus pipeline traffic volumes from other approved development projects.



Tennis Center

During the Public Hearing, both the HCC and Community members expressed concerns about bulk and height of the tennis center, the private use of the tennis center, and community access to the facility.

The applicant explored several options for reducing the bulk of the building, but they were unable to identify an option that would retain the building's functionality.

As a result, the applicant has decided they would be willing to convert the proposed Tennis Center to an academic building, if recommended and so conditioned by the HCC and/or Examiner.

If so conditioned, the applicant has indicated the following reduced impacts:

- Based on initial, conceptual renderings, the overall building footprint would decrease from 52,000 sq. ft. to approximately 35,600 sq. ft. if the Tennis Center were converted to an academic building.

- The academic building would be limited to 30' above Finished Grade or Existing Grade (whichever is lower) as measured from the center point of the West Facade for a distance of at least 75' East of the PSAA property line. East of this line, the standard and existing building height limits would be applied (specifically 30' ABE within 100' of the campus boundary and 40' ABE for portions exceeding 100' from the campus boundary). Attachment 1, Exhibit F provides an illustration of proposed height, bulk and scale of the academic building, as compared to the Tennis Center.
- The applicant would propose to retain the existing, 50' buffer and rain garden (which was originally proposed to mitigate impacts associated with the increased height requested for the Tennis Center).

After reviewing the potential conversion from Tennis Center to academic building, staff supports conditioning the project accordingly, subject to compliance with existing height limits and retention of the 50' buffer and rain garden. Specific design of the building would be reviewed and evaluated by staff through an administrative process, similar to the other buildings proposed in the Master Plan. The conversion would have lesser impacts in terms of building mass and would not increase the proposed enrollment.

The Houghton Community Council did have a question regarding any examples of commercial uses located within an institutional use. Staff was unable to find any examples of commercial uses located on public or private colleges or schools within the City. However, it should be noted that some Lake Washington School District schools within the City do host non-profit organizations like churches and sporting events. LWSD policies state that for-profit or commercial groups are not permitted without the prior approval of the Board of Directors.

Attachments

1. Applicant's Response to HCC Comments and Questions
2. Memo from Thang Nguyen, Transportation Engineer

Hearing Examiner Recommendation Exhibit List

Exhibit A, Staff Recommendation Memo Part 1

<https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Houghton+Community+Council/Northwest+University+Master+Plan+HE+HCC+Joint+Meeting+Packet+Part1.pdf>

Exhibit A, Staff Recommendation Memo Part 2

<https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Houghton+Community+Council/Northwest+University+Master+Plan+HE+HCC+Joint+Meeting+Packet+Part2.pdf>

Exhibit A, Staff Recommendation Memo Part 3

<https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Houghton+Community+Council/Northwest+University+Master+Plan+HE+HCC+Joint+Meeting+Packet+Part3.pdf>

Exhibit A, Staff Recommendation Memo Part 4

<https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Houghton+Community+Council/Northwest+University+Master+Plan+HE+HCC+Joint+Meeting+Packet+Part4.pdf>

Exhibit B, Public Comments Prior to May 15th

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_B+Public+Comments+Prior+to+5.15.pdf

Exhibit C, Applicant's Presentation from May 14th Hearing

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_C+NU+Brand+Power+Point.pdf

Exhibit D, Applicant's Proposed Traffic Mitigation

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_D+Applicant's+Presentation.pdf

Exhibit E, Applicant's Field Use Coordinator Proposal

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_E+Applicant's+Field+Use+Proposal.pdf

Exhibit F, Final Transportation Impact Analysis

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_F+Transportation+Impact+Study.pdf

Exhibit G, Public Comments After May 14th

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_G+Public+Comments+after+5.14.pdf

Continued on the next page

Exhibit H, Memo from Betsy Pringle (HCC Councilmember)

https://www.kirklandwa.gov/Assets/Planning/Planning+Docs/Ex_H+Memo+from+Betsy+Pringle.pdf

Exhibit I, Staff Memo dated August 7, 2019 (Link to here:

[https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Hearing+Examiner/NW+University+Master+Plan+HE\\$!2bHCC+Packet.pdf](https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Hearing+Examiner/NW+University+Master+Plan+HE$!2bHCC+Packet.pdf)



CITY OF KIRKLAND
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Christian Geitz, Planning Supervisor
Jeremy McMahan, Deputy Planning and Building Director
Adam Weinstein, Planning and Building Director

Date: October 22, 2019

Subject: **Final Adoption and Codification of the Shoreline Master Program Periodic Update (Shoreline Management Regulations and Policies); and Critical Area Ordinance Amendments (Stream and Wetland Regulations), File CAM19-00026**

I. RECOMMENDATION

The City Council should consider the proposed amendments based upon recommendations from the Planning Commission and Houghton Community Council, as well as recommendations and required changes from the Washington State Department of Ecology (Ecology).

With regard to the City's Shoreline Master Program (SMP) the Department of Ecology establishes required periodic update targets for local jurisdictions under Revised Code of Washington (RCW) 90.58.080 and Washington Administrative Code ([WAC](#)) [173-26-090 \(2\)](#). The initial required deadline for the City of Kirkland to complete its periodic review was June 29, 2019. Ecology, however, allowed additional time for the City to complete its local legislative review process and consideration of proposed amendments due to increased public participation and public outreach by the City. Ecology has final approval authority over the City's SMP and any subsequent amendments.

Staff recommends that the City Council adopt the following enclosed ordinances:

- O-4700: Update to the Shoreline Area Element of the Comprehensive; and
- O-4701: Amendment to chapters 5, 83, 90, 141, and 180 of the Kirkland Zoning Code .

II. BACKGROUND

The City's Shoreline Master Program establishes regulations that apply to all property within 200 feet of the ordinary high water mark of Lake Washington, as well as large wetlands associated with the Lake (Yarrow Bay, Juanita Bay and Forbes Valley). The regulations govern preferred uses, public access and ecological protection.

Every eight years after the comprehensive update in 2010, as mandated by the Shoreline Management Act and reflected in [WAC 173-26-090 \(2\)](#), the City must conduct a *periodic review* of the SMP and prepare necessary amendments to ensure consistency with any changes to state law, local plans and regulations, local circumstances, and/or new information or improved data.

WAC 173-26-090(2)(d)(iii) states: "The periodic review is distinct from the comprehensive updates required by RCW 90.58.080(2). The presumption in the comprehensive update process was that all master programs needed to be revised to comply with the full suite of ecology guidelines. By contrast, the periodic review addresses changes in requirements of the act and guidelines requirements since the comprehensive update or the last periodic review, and changes for consistency with revised comprehensive plans and regulations, together with any changes deemed necessary to reflect changed circumstances, new information or improved data. There is no minimum requirement to comprehensively revise shoreline inventory and characterization reports or restoration plans."

The Shoreline Master Program periodic update includes amendments to the following:

- Zoning Code Chapter 5 – Definitions
- Zoning Code Chapter 83 – Shoreline Management
- Zoning Code Chapter 90 – Critical Areas: Wetlands, Streams, Minor Lakes, Fish and Wildlife Habitat Conservation Areas, And Frequently Flooded Areas
- Zoning Code Chapter 141 – Shoreline Administration
- Zoning Code Chapter 180 – Plates
- Shoreline Area Chapter of the Comprehensive Plan – goals and policies

During this periodic review process the City is considering the following changes to the current SMP and wetland and stream regulations:

- **Amendments necessary to address changes to state laws since 2010 based upon the periodic review checklist provided by the State Department of Ecology (Ecology).** These proposed amendments are the minimum necessary to meet Ecology requirements of the periodic update.
- **Amendments that have been compiled since adoption of the City's shoreline regulations in 2010.** The list includes clarifications, incorporation of two code interpretations, and code amendments to address issues that have come up with permitting of shoreline projects.
- **Amendments to bring the existing critical area wetland and stream regulations contained in the SMP into consistency with the more recent (2016) critical area regulations in Chapter 90 KZC that are now applicable only for lands outside shoreline jurisdiction.** The proposed amendments to Chapter 83 KZC would adopt Chapter 90 by reference to provide consistent stream and wetland regulations within and outside shoreline jurisdiction. During this process, the Chapter 90 KZC regulations must be updated

as necessary to be consistent with current best available science direction from the State. In addition, staff has maintained a list of necessary code amendments for Chapter 90 KZC that will be considered. These amendments include clarifications and minor code amendments to address issues that have been identified as part of work on projects involving critical areas.

On August 27, 2019, the City of Kirkland submitted the final SMP and Critical Area Ordinance update recommendations from the Planning Commission and Houghton Community Council to the Washington State Department of Ecology for consideration. On October 7, 2019, the Determination of initial concurrence was presented to the City by Ecology (see Attachment 1). Ecology determined the City's proposed amendments, subject to two recommendations and four required changes (see Attachment 2), are consistent with the standards of RCW 90.58.020 and RCW 90.58.090.

III. SEPA REQUIREMENTS

The requirements of the State Environmental Policy Act of Chapter 43.21C RCW and Chapter 197-11 WAC have been met by issuance of a SEPA Addendum to the 2035 Comprehensive Plan Environmental Impact Statement (EIS) on April 15, 2019.

IV. DEPARTMENT OF COMMERCE NOTICE

Under RCW 36.70A.106, the City is required to submit a Notice of Intent to Adopt along with the draft amendments to the Washington Department of Commerce (WDOC) at least sixty days prior to final adoption. The City submitted the Intent to Adopt and the draft policies and zoning amendments to the WDOC on April 10, 2019.

V. PUBLIC OUTREACH

The updates to the City's SMP and Chapter 90 KZC wetland and stream regulations have been through an extensive review process since the beginning of the project in January 2019.

After the February Houghton Community Council (HCC) and Planning Commission (PC) study sessions, a March City Council briefing, an April Park Board briefing, the April open house and joint public hearing with the City and Ecology, and the close of Ecology's 30-day public comment period on May 8, staff received substantial comments from single family homeowners on the Lake expressing concern about the proposed amendments. The project schedule was revised to allow for additional public outreach and comment. To that end, two public meetings focusing primarily on issues of interest to single-family homeowners along the Lake shoreline were hosted by staff on May 21 and June 18.

The two public meetings were held by City staff, consultants, and Department of Ecology representatives. Notice of these public meetings were sent to subscribers of the SMP project list serv and individuals who submitted public comment. The second meeting notice was also sent to Kirkland Alliance of Neighborhoods (KAN), and the Finn Hill and Juanita Neighborhood Associations. The objectives of both meetings were to listen to property owner concerns, answer questions, clarify how the shoreline is currently regulated and explain proposed changes to SMP regulations. The second meeting was oriented toward single family shoreline regulations because regulations affecting this

stakeholder group garnered the most interest and concern about the update. A total of 42 people attended the first meeting and 26 people attended the second.

Additionally, a small group meeting with stakeholders was held on June 12 to discuss questions and concerns. The PC and HCC agreed to hold an additional public hearing to consider comments and take additional testimony on the proposed amendments. Finally, the public comment period was extended through July 25 to coincide with the additional public hearing in order for the PC and HCC to consider public comment received since April 25. All public comments received prior to submitting the initial determination request to Ecology have been responded to and are included as Attachment

3. An FAQ document of the common questions and concerns presented during these meetings was developed by staff (see Attachment 4).

VI. STUDY SESSIONS, BRIEFINGS, AND ECOLOGY/CITY PUBLIC HEARINGS

Links below are to the staff memorandums prepared for these meetings.

On [February 25, 2019](#) and on [February 28, 2019](#), respectively, the HCC and PC held study sessions to review background information, review a first draft of the amendments and provide direction and comments for preparation of the next draft of the amendments.

On [March 5, 2019](#), the City Council had a briefing to receive an overview of the SMP amendments, review the PC's direction, along with comments from the HCC, and to provide direction to staff on additional issues that were discussed in the second draft for the April 25 public hearing.

On [April 25, 2019](#), the Department of Ecology, the PC and the HCC held a joint state and local public hearing on the second draft of the amendments following an open house, where the public had the opportunity to learn more about the proposal.

Following the April 25 joint public meeting, the City received a large volume of comments and questions about the periodic review of the SMP. Staff requested the PC and HCC reopen the public hearing and allow for public meetings to occur in order to provide adequate opportunity for comments and questions to be received and clarified as discussed in section VI above.

On [July 25, 2019](#), the PC and HCC held a joint public hearing on the final draft amendments following the previous public hearing and two public informational meetings (May 21 and June 18).

VII. PROPOSAL

The following is a brief summary of the proposed amendments, including those items that have received increased interest from the public. The full list of amendments is explained within the summary chart and found in the track changes versions of each code section. Additionally, the Q & A handout prepared by staff provides responses to the majority of questions submitted throughout the process (see Attachment 4).

A. Amendments to Chapter 83 – Shoreline Management

Gap Analysis of Proposed Shoreline Amendments contains a summary of the proposed changes to KZC 83 (see Attachment 5).

The bulk of the changes are to stand-alone critical area wetland and stream Sections 83.490 KZC through 83.510 KZC. These are replaced by incorporating by reference Chapter 90 critical area regulations.

Sections 83.270 KZC through 83.290 contain the bulk of the remaining changes to:

- **Clarify text** and incorporate two Zoning Code Interpretations - one addressing boat canopies and the other addressing pier bumpers.
- **Revise the hours of operation and limitations on accessibility for public access along the shoreline.** The Planning Commission requested that the hours in which walkways located on private property may be accessed by the public end at sunset, rather than dusk, as sunset is a recognizable and verifiable time, whereas dusk can be subjective. Staff has proposed to revise the hours of accessibility to between 10:00 a.m. and 10 minutes after sunset (see section 83.420) during spring and summer. The specific hours will continue to govern during fall and winter months consistent with existing code requirements. It should be noted that existing public access along the lake is subject to the terms of recorded easements and the terms of those easements will continue to govern. New public access easements would be subject to the new requirements based on sunset rather than dusk.
- **Revise the minimum water depth requirement and residential pier length standards.** Staff recommends removal of the depth standards for ells and fingers, which generally conflicts with the length standards (i.e., additional length is often required to meet depth standards).
- **Clarify the allowable length of piers for single-family residential properties.** Staff recommends clarifying that the allowable length of a pier be determined based on neighboring or nearby piers. Staff has established a clarifying series of plates (47 and 48 A/B) which establish how to calculate the allowed length of a pier.
- **Allow two boat lifts.** Staff recommends allowing an increase in the number of boat lifts for single-family residential properties to two (currently limited to one boat lift). Only one boat lift canopy will be allowed.
- **Delete the administrative approval option** that allows a larger area, less depth and/or wider pier than Chapter 83 KZC permits if federal and state agencies approve the deviation. Staff has found that federal and state agencies do not have firm standards but rather use biological analysis to approve deviations from the City's pier standards. Staff does not think that the administrative approval option should continue, but that the local pier regulations in Chapter 83 KZC should prevail. The administrative approval option was not required by Ecology, but was a concept included by the City in 2010. The provision has been used rarely since then.
- **Add a setback reduction option for removal of 50% of a bulkhead.** The idea is to incentivize replacing hard bulkheads with soft shoreline stabilization measures and restoring the shoreline to a more natural state. Creating this mid-range option between what is now allowed may entice some shoreline property owners to consider converting at least 50 percent of their lake frontage to a more natural state in exchange for a 10 percent reduction in the required setback between the lake and

allowed development/redevelopment. Soft shoreline stabilization measures result in a more gradual gradient between the beach and the developed portion of the site, helping dissipate wave energy and providing related ecological benefits.

The remaining changes are minor edits and code amendments, and include reorganization of Section 83.420, Public Access, and Section 83.270, Piers and Docks serving a Detached Dwelling Unit (Single Family).

B. Amendments to Chapter 141 – Shoreline Administration

Gap Analysis of Proposed Shoreline Amendments (Attachment 5) contains a summary of all proposed changes to KZC 141. Various clarifications to the review procedures, including reference to regulations in Chapter 173-26 WAC for the Shoreline Management Act, are also proposed.

C. Amendments to the Shoreline Goals and Policies in the Shoreline Area Chapter of the Comprehensive Plan

All but two of the amendments to the Shoreline Area Chapter are minor revisions to reflect the 2011 annexation area in the chapter, including the mention of O.O. Denny Park, Juanita Drive and the multifamily area west of Juanita Beach Park.

One new policy (SA-11.2) is proposed to support the revised pier regulation found in Sections 83.270 and 83.280: that new single and multifamily piers should not exceed the length of adjacent piers so that they are in character with the neighborhood and do not create a boating hazard. This new policy states, "Design and construct new or expanded piers so that they are in character with adjacent neighboring piers for length." This further strengthens existing policy SA-11.1 which states, "Design and locate private piers so that they do not interfere with shoreline recreational uses, navigation, or the public's safe use of the lake and shoreline."

D. Amendments to Chapter 90 Wetland and Stream regulations resulting from the list of needed clarifications and minor amendments

Since adoption in 2016, Planning staff has been reviewing critical area wetland stream proposals and issuing land use and building permits using Chapter 90 KZC. Staff has kept a list of needed clarifications and minor amendments. In addition, changes are proposed to bring the wetland and stream regulations into consistency with current best available science as required by the State.

Gap Analysis of Proposed Critical Area Amendments on the SMP website is a matrix listing all changes recommended by staff to KZC Chapters 5 and 90 (see Attachment 6). The matrix identifies the location of the proposed amendment in the Chapter, the type of amendment (i.e. clarification, code amendment, or policy change), a description of the proposed change and the rationale for the suggested change.

VIII. NEXT STEPS

1. Houghton Community Council provides their response to the City Council ordinance, by resolution.
2. The adopted amendments are sent to Ecology for approval by the State, which has final authority over the SMP amendments.
3. SMP effective 14 days after approval from Ecology's Director.

IX. ATTACHMENTS

1. Department of Ecology Initial Determination of Consistency
2. Department of Ecology Required and Recommended Changes
3. Summary of Public Comments with Response
4. Planning Department Q & A Response Document
5. KZC 83 Gap Analysis
6. KZC 90 Gap Analysis

X. EXHIBITS

1. Draft Comprehensive Plan Ordinance, O-4700 with Exhibit
2. Draft Zoning Code Ordinance, O-4701 with Exhibit

TO: Christian Geitz, Planning Supervisor – City of Kirkland
FROM: Misty Blair, SMA Policy Lead, WA Department of Ecology
Date: October 7, 2019
Subject: **SMP Periodic Review - Determination of initial concurrence**

Sent via email to: CGeitz@kirklandwa.gov; jcha461@ecy.wa.gov

Brief Description of Proposed Amendment

The City of Kirkland (City) has submitted Shoreline Master Program (SMP) amendments to Ecology for initial determination of concurrence to comply with periodic review requirements of RCW 90.58.080(4). The City has elected to utilize the optional joint review process for SMP amendments available per WAC 173-26-104; therefore Ecology is required under WAC 173-26-104(3)(b) to make an initial determination of consistency with applicable laws and rules. The City proposes amendments to bring the SMP into compliance with requirements of the Act or State Rules that have been added or changed since the City's comprehensive SMP update. The City is also proposing updates to the critical areas regulations that are incorporated by reference into the SMP, and miscellaneous amendments intended to improve the clarity, consistency, and administration of the SMP.

FINDINGS OF FACT

Need for amendment

The City's comprehensive update to their SMP went into effect in 2010. The proposed amendments are needed to comply with the statutory deadline for a periodic review of the City's Shoreline Master Program pursuant to RCW 90.58.080(4). The City has identified that this periodic review will result in amendments to the SMP to address updates to the Act or implementing State Rules, changed local circumstances, new information, and improved data.

SMP provisions to be changed by the amendment as proposed

The City's proposed changes fall primarily into four categories:

- those required to incorporate changes in State law (RCW 90.58) or State rule (WAC 173-26 & WAC 173-27);
- those added to update critical areas provisions;
- those locally initiated changes to address implementation issues identified by staff and to provide flexibility for reasonably foreseeable development; and
- those added in response to public comment.

The City of Kirkland SMP consists of shoreline goals and policies contained within the Kirkland Comprehensive Plan Section XVI. Shoreline Area; shoreline regulations contained in Kirkland Zoning Code (KZC) Chapters 83 and 141. The City filled out the Ecology SMP Periodic Review checklist to address requirements of the act or state rules that have been added or changed since the last SMP amendment. Those proposed changes along with the City's locally initiated proposed changes modify the following

SMP sections: Kirkland Comprehensive Plan Section XVI: Shoreline Area, Kirkland Zoning Code (KZC) Chapter 83: Shoreline Management, KZC Chapter 141: Shoreline Administration, KZC Chapter 5: Definitions, and KZC Chapter

Kirkland Comprehensive Plan Section XVI: Shoreline Area

A. Introduction – Minor narrative edits to reference SMP Periodic Review process occurring in 2019 and add reference to O.O. Denny Park, which was annexed into the City after the SMP comprehensive update in 2010.

B. Shoreline Goals and Policies –

Subsection 1. Shoreline Land Use and Activities

Minor edits to the total lineal feet of shoreline reference and replace the term *sensitive areas* with *critical areas*. Other minor clerical errors were fixed. Additional modifications clarify that the annexation area also includes a business district west of Juanita Beach Park, single-family residential uses in the Finn Hill Neighborhood, and medium to high density residential uses west of Juanita Beach Park. The City added modified Policy SA-6 to clarify that public access requirements only apply to subdivisions of five or more lots. The City proposes to add Policy SA-11.2, below, and re-number remaining policies to accommodate.

Policy SA-11.2: Design and construct new or expanded piers so that they are in character with adjacent neighboring piers for length.

Private piers should not exceed the length of neighboring piers. A pier that exceeds the length of neighboring piers can be a boating hazard for the neighbors and the general public, result in unnecessary additional overwater coverage and create a structure out of character with the neighborhood.

Subsection 2. Shoreline Environment

Edits to *Goal SA-13: Preserve, protect, and restore the shoreline environment* are proposed to identify how the City's critical areas regulations in KZC Chapter 90 are incorporated by reference into the SMP. Edits to *Policy SA-13.5: Protect and restore critical freshwater habitat* are proposed to add Denny Creek and Champagne Creek and update information related WDFW identified habitats and nesting areas for bald eagle, great blue herons, trumpeter swans, and pileated woodpeckers. Additional edits to the cross-reference Note associated with Goal SA-13, Policy SA13.5, and Policy SA-15.4 are proposed to eliminate the external cross-reference to the Natural Environment chapter of the Comprehensive Plan.

Subsection 3. Shoreline Parks, Recreation, and Open Space

Policy SA-19.1 is modified to add a Denny Creek to the list of streams that have outlets within City parks. Minor edits are proposed to Policy SA-20.2 related to existing boat trailer parking. O.O. Denny Park is added to the list of parks within *Policy SA-20.3* and *Policy SA-20.7*.

Subsection 4. Shoreline Transportation

The term *sensitive areas* is replaced with the term *critical areas*. *Policy SA-23.2* is modified to add Juanita Drive to the list of opportunities available to improve public access and provides an update to the name of the City's Transportation Master Plan. Clarification is added to Policy SA-24.2 related to the siting of floatplane facilities so they do not interfere with public swimming beaches and also maintain safe boating corridors.

Kirkland Zoning Code Chapter 83 – Shoreline Management

Section 83.80 Definitions* –

Added the following to the introductory:

Where definitions in this chapter conflict with definitions elsewhere in the KMC or KZC, the definitions provided in this section shall control. In addition, all the definitions in RCW 90.58.030, WAC 173-26-020, and WAC 173-27-030 shall be deemed definitions in this chapter.

Average Parcel Depth – added vehicular in front of easement road and access easement in this existing definition for clarification.

Removed outdated Stream type Class A- Class B – Class C definitions.

Development – added “Development” does not include dismantling or removing structures if there is no other associated development or re-development.

Nonconforming use or development – this definition is modified and separated into three for nonconforming development, nonconforming use, and nonconforming lot.

Pier Bumpers definition is added.

Piling is modified.

Normal Maintenance or Repair definition is added for WAC 173-27-040 with the addition of the following sentence: Examples of maintenance and repair include painting; repair of stairs, roof, siding, decking, and structural supports. Examples of replacement include replacement of siding, windows, or roofing; changing doors to windows and windows to doors; replacement of failing shoreline structures.

Skirting definition is modified to clarify that the boards along the edge can be vertical or horizontal.

Utility Transmission Facilities definition is modified to add the specific types of power lines, and pipelines that are considered utility transmission facilities rather than just utilities.

Deleted definitions that were simply references to Chapter 5 KZC or where the same definition exists in Chapter 5 KZC, because the introduction already includes a general reference to the applicability of all of those definitions.

*This entire section will have to be renumbered to accommodate the definitions proposed removed and added.

Section 83.160 User Guide – The City proposes to add that a conditional use permit must also meet criteria for a substantial development permit. This section is also edited to update an internal KZC reference.

Section 83.170 Shoreline Environments, Permitted and Prohibited Uses and Activities Chart –

The City proposes to combine non-motorized and motorized Boat Launch uses, clarifying that the associated prohibition or CUP is only applicable to a new or expanded boat launch.

Section 83.180 Shoreline Development Standards – The City proposes to modify the following: Recreational Uses – Add that water-dependent uses have no setback and water-related uses have a 25’ setback in the Urban Mixed SED.

DEVELOPMENT STANDARDS	SHORELINE ENVIRONMENT					
	Aquatic	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed
Shoreline Setback ¹	n/a	Water-dependent uses: 0’, Water-related use: 25’, Water-enjoyment use: 30’, Other uses: Outside of shoreline area, if feasible, otherwise 50’.	Water-dependent uses: 0’, Water-related use: 25’, Water-enjoyment use: 30’, Other uses: Outside of shoreline jurisdictional area, if feasible, otherwise 50’.	Same as Detached Dwelling Units uses.	R-M/H (A) environment: The greater of: a. 25’ or b. 15% of the average parcel depth. R-M/H (B) environment: 45’ minimum.	Water-dependent uses: 0’, Water-related use: 25’. Other uses: The greater of: a. 25’ or b. 15% of the average parcel depth. In the PLA 15A zone located south of NE 52nd Street, mixed-use developments approved under a Master Plan shall comply with the Master Plan provisions.

Utilities Uses – footnote 7 providing that storm water outfalls may be within the shoreline setback is added.

An additional edit is proposed to footnote 1 updating the KZC reference for critical area buffers.

Section 83.180 Lot Size or Density, Shoreline Setback, Lot Coverage and Height –

Subsection 2.d. is modified to clarify that the allowed 8 foot private pedestrian access walkway may be divided into two narrower walkways if together they do not exceed the 8 foot width and all walkways must be perpendicular to the lake.

Subsection 9.b is modified to clarify the horizontal dimensional include any allowed walkways. The reference to residential structures is replaced with primary structure and it is clarified that this is based on the length of the façade facing the lake.

Subsection 16 is modified to include non-permeable artificial turf in the list of structures or improvements that are not allowed within the shoreline setback.

Section 83.200 Residential Uses – The City proposes to modify subsection 3 to add a cross-reference to 83.190 for activities permitted within the shoreline setback and provide a more specific list of example of water-dependent accessory uses that might also be allowed waterward of the principal residence.

Section 83.210 Commercial Uses – Subsection 3, Retail Establishments Providing Gas and Oil Sale for Boats is modified to clarify that this use includes mobile fueling businesses.

Section 83.240 Utilities – The City proposes to add a new subsection 1.c prohibiting geothermal heat pumps waterward of the OHWM, the remaining subsections are renumbered to accommodate this addition.

Section 83.250 Land Division – The City proposes to add a new subsection 1.c providing that new lots created will not result in an increased nonconforming shoreline setback.

Section 83.260 General – The City proposes to limit the no net loss standard and requirement for mitigation sequencing to only conditional use permits, variances, or other unique uses or activities such as marinas and multifamily piers.

Section 83.270 Piers, Docks, Moorage Buoys and Piles, Boat Lifts and Boat Canopies Serving a Detached Dwelling Unit Use (Single-family) –

The City proposes to clarify, within subsection 1.a, that residence upland lots with legal lake access and their guests may also use these water-dependent accessory single-family residential structures.

Subsection 3. General Standards are modified to remove the administrative approval process for alternative dock and pier standards. A new subsection c. is added to require that moorage be located at least 30 feet from the OHWM. A new subsection d. is added to require pier ladders for lake access on all piers. Residential boat launches and boat rails are added to the list of prohibited structures and improvements. This section is also modified to clarify that utility lines located waterward of the OHWM must be affixed below the pier or dock and above the water. Clarification is added to the moorage buoy standards. The water depth standard for moorage buoys is proposed to be deleted. The City proposes to allow pier bumpers and provides standards.

Subsection 4. New Pier or Dock Dimensional Standards.

- a. This table is re-organized and the Maximum length standard is modified to clarify that the maximum length is either the average of the nearby piers or 150 feet, whichever is less. The City also provides new Plates 47 and 48A/B to illustrate this standard. Maximum width standards are modified to include that even piers and docks with no ells or fingers must be no more than four (4) feet wide within 30 feet of the OHWM. Minimum Water Depth standard is removed throughout the table. The city proposes to clarify that ells, fingers and deck platforms shall be located near the terminal (waterward) end of the pier. The term *pier piling* replaces the term *piling* and moorage buoy standards are relocated outside the Pier Piling and Moorage Pile section.
- b. This section is deleted – removing the administrative approval for alternative design of new pier or dock for detached dwelling unit process.

The following Plates: Plate 47, 48A, and 48B were created to illustrate the provisions of KZC 83.270.4:

Plate 47: Establishing average pier length/navigation line

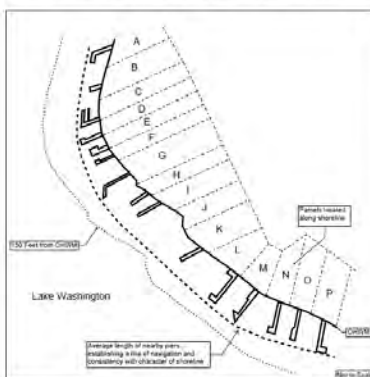


Plate 48A - How to determine the allowable length of a single-family pier (83.270.4).

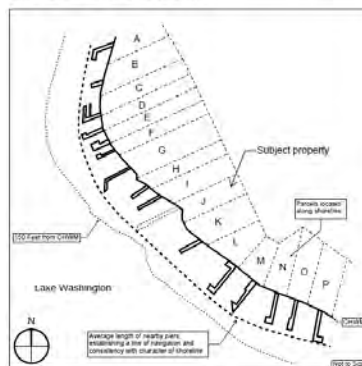
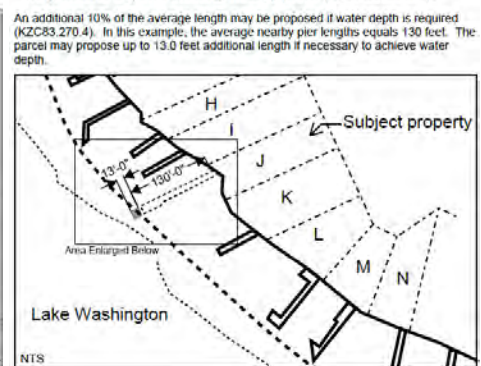


Plate 48B - How to determine the maximum length a pier may extend beyond existing nearby piers (KZC 83.270.4).



Subsection 5. Mitigation – for new dock and piers

Modifies subsection a. to remove limitation of the application of this provision for only moorage structures or recreational uses within 30 feet of OHWM. Provides a new example of a required joint-use pier and moves the language regarding joint-use piers from subsection c. into a new subsection d. Subsequent sections are re-numbered accordingly. Adds clarity to subsection e. by removing the alternative planting plan option and providing that existing non-native vegetation can remain, but cannot be counted toward meeting the vegetation mitigation requirements. New subsection f. provides that planting plans on properties that include bulkheads shall include species which promote growth overhanging the water. Additional modifications to subsection g. are proposed to remove allowances for compliance with federal or state permit monitoring requirements to meet the City's monitoring requirement.

Subsection 6. Replacement of Existing Pier or Dock.

The City proposed to Delete subsection b. which allows for alternative designs when approved by the US Army Corps of Engineers and the Washington State Department of Fish and Wildlife.

Subsection 7. Additions to Piers or Docks. Removes water-depth from the dimensional standards and modifies the mitigation requirements for the RSA zone to require the removal of the more non-conforming pier or dock, if two piers or docks or covered moorage structures are located on the subject property.

Subsection 8. Repair of Existing Pier or Dock. Additional language added to subsection a. to provide that if repairs that occur over any five year period exceed that allowances of this section if shall be reviewed as a replacement rather than a repair. Adds cross reference to 83.270.4 for pier dimensional standards and adds allowances for cross bar anchor stabilization additions to existing piers. And removes a cross-reference to 83.270(5)(b) because that alternative design option is proposed to be deleted.

Subsection 9. Boat Lifts and Boat Lift Canopies. The City proposes to increase the height limit which boat lifts are allowed to extend above the pier from seven (7) feet to twelve (12) feet and increase the number of freestanding or deck-mounted boat lift per detached dwelling unit to two (2).

Section 83.280 Piers, Docks, Moorage Buoys, Boat Lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units (Multi-family) – The City proposes to make the same clarifications, additions, and deletions described in the Single-family section (83.270 see previous descriptions).

Section 83.290 Marinas and Moorage Facilities Associated with Commercial Uses –

The City proposes to add Public Parks to this entire section, including a cross reference to KZC 83.220.5. The City also proposes to make the same clarifications, additions, and deletions described in the Single-family section (83.270 see previous descriptions) with the addition of the following:

Subsection 4. General Standards

Subsection c. modifications include the reduction in the number of required trash cans from two (2) to one (1). Subsection f. is modified to only require a pump-out facility if another facility is not already located nearby. New subsection g. is added to allow pier bumpers and provide standards.

83.300 Shoreline Stabilization –

Includes minor clarifications to consistently utilize the terms minor and major within the context of repair, maintenance, and replacement actions. Clarifies that boulders alone are not considered soft stabilization, but boulders can be used occasionally for habitat complexity as part of soft stabilization projects. The City also proposes to clarify that if more than one section of bulkhead is located on a property the entire length of all sections shall be included in any calculations required within subsection 4. Major Repair or Major Replacement of Hard Structural Shoreline Stabilization. A requirement that plans must be prepared by a qualified professional and if a 3-party consultant is retained to review the shoreline stabilization plan they will attend a pre-submittal meeting for the building permit are added to Subsection 8 Submittal Requirements.

83.360 No Net Loss Standard and Mitigation Sequencing –

Minor edits proposed to provide clarity, examples, or update references. A new subsection g. is proposed to require at any mitigation analysis required be prepared by a qualified professional and subject to 3rd party review.

83.370 Federal and State Approval – Minor edit proposed to add the City's clearing and grading permit, called a land surface modification permit to the list of permits the City will not issue without documentation verifying other necessary state and federal agency approvals or authorizations have been obtained.

83.380 Shoreline Setback Reduction – Minor re-organization of subsection 2.b is proposed, but contains no substantive change to the purpose, intent or implementation of this provision. In addition, a provision is added to subsection 2.b.4 requiring that reduced setbacks be documented with the filing of an electronic copy of the approved as-built landscape plan in the City's electronic permitting system. A cross-reference to KZC 141.70.4 is added as new subsection e. relating to properties where hard shoreline stabilization has been removed. New option is added to Shoreline Setback Reduction Options Chart in subsection f. to allow a shoreline setback reduction if at least 50 percent of the linear lake frontage on a parcel is protected with nonstructural or soft shoreline options rather than hard armoring. Remove the incentive related to biofiltration/infiltration mechanisms and add more prescriptive standards (1.5 trees per 100 linear feet and a reference to 83.400.3.2 for shrub and groundcover standards) to the landscape strip incentive. Clarifying that the preservation or restoration must occur within the shoreline jurisdiction in order to use the setback reduction allowance.

83.380 Tree Management and Vegetation in Shoreline Setback – Language added to the Planting Requirements section providing that where there is an existing bulkhead, plantings shall include species which promote growth overhanging the water.

83.420 Public Access— The City proposes minor modifications, clarifications, and re-organization within this section and the following language is added as new subsection 1:

Treaty Rights - The Muckleshoot Indian Tribe has federally-protected treaty rights to fisheries resources within their usual and accustomed areas (“U&A”), including access to these resources. Kirkland’s regulated shoreline areas are a subset of the Muckleshoot Tribe’s larger “U&A” area. Activities and development regulated under this Shoreline Master Program have the potential to impact treaty-protected fisheries resources and tribal members’ ability to access to these resources. Accordingly, the City will work with the Muckleshoot Tribe to ensure that permitted projects do not unduly impede or impair in-water or upland tribal fishing access.

83.480 Water Quality, Stormwater, and Nonpoint Pollution – The City proposes minor edits to this section to update references and clarify applicable BMPs.

83.480 Critical Areas – The City proposes delete many of the stand-alone SMP critical areas provisions and replace them with critical areas provisions from KZC 90 through incorporation by reference, with the exception of a short list of excluded provisions. KZC 83.500 Wetlands, KZC 83.510 Streams are deleted in their entirety. Specific Geologically Hazardous Areas provisions of KZC 83.520, Flood Hazard Reduction provisions of KZC 83.530, and Archaeological and Historic Resources provisions of KZC 83.540 remain unchanged within the SMP.

83.550 Nonconformances – The City proposes minor modifications and clarifications to expand examples and improve implementation. A new subsection b) is added to 83.550.5.b 5) to require that nonconforming accessory structures located at or waterward of the OHWM, including overwater decks, pier flares, stairs, or similar improvements be removed or otherwise brought into conformance if the cost of alterations to a primary structure exceeds 50 percent of the replacement value. Clarification is added to address if there is more than one pier or dock located on a property it is the more non-conforming structure that must be removed. The City also clarifies that water-dependent uses are not considered discontinued after 90-days when they are inactive due to typical operational considerations.

Kirkland Zoning Code Chapter 141 – Shoreline Administration

141.30 Review Required and 141.40 Exemption from Permit Requirements- The City proposes to add clarifying text consistent with WAC 173-27 addressing the shoreline substantial development permit, shoreline conditional use permit, variance permit, and exemptions from the shoreline substantial development permit process.

141.45 Development not required to obtain shoreline permits or local review Exemption from Permit Requirements – The City added this new section to address remedial action, boatyards, WSDOT facilities, RCW 90.58.045 and Energy Facility Site Evaluations.

141.60 Applications – The City added a reference to the primary proponent of a project per WAC 173-27-180(1) as a person who may apply for a permit.

141.70 Procedures – The City made modifications to clarify the permit process and submittal or filing requirements to improve consistency with WAC 173-27.

Kirkland Zoning Code Chapter 5 – Definitions

The KZC Chapter 5 Uses Guide (Section 5.05) already directs users to Chapter 83 for shoreline management definitions. The modifications to definitions includes adding the critical areas definitions previously contained with KZC Chapter 90 into Chapter 5 and removing or updated cross references related to shoreline management in KZC Chapter 83. As a result of the City's proposed incorporation by reference of critical areas provisions, with exceptions, found in KZC Chapter 90, these proposed modifications remove unnecessary exclusions and redundancies between KZC Chapter 90, 83, and 5.

Kirkland Zoning Code Chapter 90 – Critical Areas: Wetlands, Streams, Minor lakes, Fish and Wildlife Habitat Conservation Areas, and Frequently Flooded Areas

For the purpose of this review we have focused on sections proposed for incorporation into the SMP. As proposed KZC Chapter 83 subsections 83.500 Wetlands and 83.510 Streams will be deleted and replaced with the following Chapter 90 sections:

90.05	User Guide
90.10	Purpose
90.15	Applicability
90.20	Critical Areas Maps and Other Resources
90.25	Regulated Activities
90.40	Permitted Activities, Improvements or Uses Subject to Development Standards
90.50	Programmatic Permit – Public Agency and Public Utility
90.55	Wetlands and Associated Buffer Standards
90.60	Wetland Modification
90.65	Streams and Associated Buffer Standards
90.70	Stream Modification
90.75	Daylighting of Streams
90.80	Buffer Reduction for Meandering or Daylighting of Stream
90.85	Stream Channel Stabilization
90.95	Fish and Wildlife Habitat Conservation Areas
90.100	Frequently Flooded Areas
90.105	Critical Area Determination
90.110	Critical Area Report
90.115	Buffer Averaging
90.120	Limited Buffer Waivers – not to include KZC 90.120.2 – Type F Stream Buffer Waiver.
90.125	Increase in Buffer Width Standard
90.130	Vegetative Buffer Standards
90.135	Trees in Critical Areas and Critical Area Buffer
90.140	Structure Setback from Critical Area Buffer
90.145	Mitigation – General
90.150	Wetland Compensatory Mitigation
90.155	Measures to Minimize Impacts to Wetlands
90.160	Monitoring and Maintenance
90.165	Financial Security for Performance, Maintenance and Monitoring
90.170	Subdivisions and Maximum Development Potential
90.175	Dimensional Design Standards for Residential Uses
90.190	Critical Area Markers, Fencing and Signage
90.195	Pesticide and Herbicide Use
90.200	Critical Area Buffer and Structure Setback from Buffer under Prior Approvals
90.205	Code Enforcement
90.210	Dedication and Maintenance of Critical Area and Buffer
90.215	Liability

The above referenced KZC Chapter 90 sections, modified KZC 83.490 Critical Areas, 83.520 Critical Areas: Geologically Hazardous Areas, and 83.530 Flood Hazard Reduction together make up the SMA required critical areas protections within the shoreline jurisdiction.

Amendment History, Review Process

The City used Ecology's checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i). The City also reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii). The City considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii). The City consulted with Ecology and solicited comments throughout the review process. Ecology completed an Initial, pre-public comment period, review of the City's proposed amendment in February and provided written comments to City staff and their consultant on March 11, 2019. Issues identified by Ecology were resolved prior to the joint local-state comment period.

The City prepared a public participation plan in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines. The City executed this plan by hosting an open house, creating a web page, and initiating outreach to residence, neighboring jurisdictions and tribes.

The City provided public notice of the SMP Periodic Review process and promoted public input as outlined in their Public Participation Plan via:

- Postcards were mailed to 1,395 shoreline jurisdiction property owners on February 9, 2019;
- The City established a ListServ for the SMP periodic review process;
- Public notice signs and flyers were posted at four (4) waterfront parks: Houghton Beach, Marina, Juanita Beach, and Denny;
- Study Sessions were held at the Houghton Community Council on February 25th and at Planning Commission on February 28th, followed by a City Council briefing on March 5th;
- Additional noticing was provided on March 20, 2019 to the above referenced shoreline property owners, stakeholders, and ListServ subscribers noticing the 30-day joint local-state comment period;
- Open House followed by Joint local-state Public Hearing occurred on April 25, 2019;
- Additional public meeting occurred on May 21, 2019, followed by a small group meeting on June 12, 2019 and another public meeting on June 18, 2019;
- Additional noticing for a second Public Hearing before the Joint Planning Commission and Houghton Community Council meeting on July 25, 2019 was provided on July 11, 2019 to the above referenced shoreline property owners, stakeholders, and ListServ subscribers;
- On July 25, 2019 the City held an additional Public Hearing during a joint Planning Commission and Houghton Community Council meeting;

On April 15, 2019 the City issued an addendum to the City of Kirkland 2015 Comprehensive Plan Update & Totem Lake Planned Action – Draft and Final Environmental Impact Statement pursuant to WAC 197-11-625 to meet the City's SEPA responsibilities for this SMP Periodic Review and associated

amendments. A copy of this EIS Addendum was provided to Ecology for this SMP Amendment adoption record.

The City provided notice to local interested parties, including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii). Ecology distributed notice of the joint comment period and public hearing to state interested parties on or before April 8, 2019.

The City and Ecology held a joint local/state comment period on the proposed amendments following procedures outlined in WAC 173-26-104. The comment period began on April 8 and continued through May 8, 2019. A joint local/state public hearing was held on April 25, 2019.

Ecology and the City of Kirkland initially accepted public comments on the proposed SMP update during a 30-day joint public comment period from April 8 through May 8, 2019, and at a joint public hearing in Kirkland on April 25, 2019. Comments continued to be received and accepted by the City after the close of the joint public hearing through a second hearing held by the City on July 25, 2019. One person provided oral comment at the public hearing on April 25, and twelve people provided oral comment at the public hearing on July 25. A total of sixty-two (62) written comments from individuals or organizations were received by the City.

The City prepared a Comment Summary and Response Table which identifies 70 different commenters. The comments were organized into Table 2, which provides a summary of issues raised during the comment period as well as a response to the issues raised pursuant to WAC 173-26-104 (2). All comments were considered by the City. Nine (9) revisions made in response to public comment were specified within Table 2 and incorporated into the City's draft SMP Amendment prior to initial submittal.

The City provided their initial submittal of the proposed SMP amendments to Ecology pursuant to WAC 173-26-104 via email on August 27, 2019 with additional submittal items related to public comments received on September 6, 2019 and the submittal was determined to be complete. This began Ecology's review and initial determination.

Other Studies or Analyses supporting the SMP update

Ecology also reviewed supporting documents prepared for the City in support of the SMP amendment. These documents include a public participation plan, a periodic review checklist, Gap Analysis - *City Initiated Amendments Proposed to Chapter 5 and Chapter 90 KZC*, Gap Analysis – *City Initiated Amendments Proposed to Chapter 83 and 141 KZC and Shoreline Area chapter of the City's Comprehensive Plan*, and the City of Kirkland Initial Determination Consistency Memo.

Consistency with SEPA Requirements

The City submitted evidence of SEPA compliance in the form of an issued EIS Addendum for the proposed SMP amendments. Ecology did not comment on the SEPA.

Consistency with Chapter 90.58 RCW

The proposed amendments have been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with applicable guidelines (Chapter 173-26 WAC, Part III)

The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Periodic Review Checklist, which was completed by the City.

Summary of Issues Identified by Ecology as Relevant to Its Decision

Ecology is required to review all SMPs to ensure consistency with the Shoreline Management Act (SMA) and implementing rules including WAC 173-26, State Master Program Approval/Amendment Procedures and Master Program Guidelines. WAC 173-26-186(11) specifies that Ecology “shall insure that the state’s interest in shorelines is protected, including compliance with the policy and provisions of RCW 90.58.020.”

Based on review of the proposed amendments to the SMP for consistency with applicable SMP Guidelines requirements and the Shoreline Management Act, and consideration of supporting materials in the record submitted by the City, the following issues remain relevant to Ecology’s final decision on the proposed amendments to the City’s SMP, with Findings specific to each issue identifying amendments needed for compliance with the SMA and applicable guidelines:

Critical Areas Protection Standards of the SMP

The City’s current SMP contains imbedded critical areas provisions. The City is now proposing to remove some of those provisions and replace them with an incorporation by reference of the City-wide critical areas regulations, with some exceptions.

Critical Areas regulations are incorporated by reference into the SMP to address SMA required critical areas protection standards. Ecology has identified changes to the City’s proposed amendment to the SMP’s proposed critical areas provisions that are necessary for consistency with WAC 173-26-201(2)(a) & (c), WAC 173-26-221, and WAC 173-26-191(2)(b) & (c) (Attachment 1, Item Req-3). Ecology also identified changes to the General provisions section of KZC 83.260 necessary for consistency with WAC 173-26-201(2)(c).

Finding. *Ecology finds that all new development and uses are subject to mitigation sequencing and the no net loss of shoreline ecological function standards of the SMA and Guidelines. Ecology finds that the City’s SMP provides some prescriptive mitigation sequencing, BMP, and compensatory mitigation measures pre-designed by the City to the SMP no net loss standard. The City is proposing to clarify that in those instances where the SMP provides prescriptive mitigation standards additional no net loss and mitigation analysis reporting is not required. Ecology has identified that provisions of KZC 83.360 require additional clarification to ensure consistency with the WAC 173-26-201(2)(c).*

Ecology finds that specific regulations (bulk, dimensional, or performance standards) must also be accompanied by prescriptive mitigation measures in order to eliminate the need for site specific mitigation sequencing and no net loss reports; therefore mitigation measures must be added to KZC 83.360.1 (Attachment 1, item Req-3) for consistency with WAC 173-26-201(2).

Finding. *Ecology finds that the proposed SMP amendment provisions of KZC 83.490.1 and KZC 83.490.2 do not clearly identify how the critical areas provisions apply within the shoreline jurisdiction. Ecology finds that, for consistency with WAC 173-26-191(2)(b) & (c), the reference to incorporation of the City’s*

Critical Areas Ordinance KZC 90 (identified in Attachment 1, item Req-3) needs to be modified to clarify that those provisions are regulations of the SMP to be implemented through the authority of the SMA. KZC may provide additional review considerations, submittal requirements, and decision criteria but as an incorporated provision of the SMP they must be reviewed and processed through the shoreline permit system as provided in KZC 141.

Finding. Ecology finds that the proposed SMP amendment provisions of KZC 83.490.4 are not consistent with the wetland protection requirements of WAC 173-26-221(2). Ecology also finds that if implemented, these provisions could result in a net loss of shoreline ecological function. The City is proposing to include as permitted activities within wetlands and their buffers all Cross Kirkland Corridor and Eastside Rail Corridor project and development associated with City Parks, Transportation, and Utility Master Plans. The Cross Kirkland Corridor and Eastside Rail Corridor are not located within the City's shoreline jurisdiction, so this provision does not need to be incorporated into the SMP. City Parks, Transportation, and Utility Master Plans are often not detailed enough to provide the project level analysis necessary to determine compliance with the SMP. Ecology finds that allowing Master Plan projects within wetlands and buffers is not consistent with the SMA requirements for wetland protection, mitigation sequencing, and no net loss of shoreline ecological function standards.

Ecology finds that KZC 90.40 subsections I and j must be excluded from incorporation into the SMP (Attachment 1, item Req-3) for consistency with WAC 173-26-211(2) and WAC 173-26-201(2).

SMP Administration, Permits and Procedures

Ecology has identified changes to the City's Shoreline Administrative section KZC 141 and KZC 83.160 that are necessary for consistency with RCW 90.58 and WAC 173-27 (Attachment 1, Items Req-1 & Req-4).

Finding. Ecology finds that the Shoreline Management Act (SMA) establishes three types of shoreline permits: substantial development permit, conditional use permit, and variance permit. Proposals for development and activities within shoreline jurisdiction may require one, two or all of those permits – or none at all. Ecology also finds that conditional use permits and variances can be issued for projects that do not include “substantial development” or with a development activity that is exempt from the shoreline substantial development permit process per WAC 173-27-040.

Ecology finds that KZC 141.70 and KZC 83.160.1.c must be modified to remove the proposed requirement that all conditional use permits or variances must also meet the substantial development permit criteria (Attachment 1, items Req-1 & Req-4) for consistency with RCW 90.58.140 and WAC 173-27-130 through 170.

Additional items identified as recommended changes

In addition to the issues identified above as requiring changes to ensure consistency with the SMA and its implementing guidelines, Ecology has also identified changes recommended to fix minor errors, provide clarity or improve implementation. These items can be found within Attachment 1, items Rec-1 & Rec-2.

Findings. Ecology finds that Attachment 1, item Rec-1 recommended changes, if implemented would be consistent with the policy and standards of RCW 90.58 and the applicable guidelines, however, the

inclusion of these changes are at the discretion of the City and are not necessary in order to approve this Periodic Review amendment.

INITIAL DETERMINATION

After review by Ecology of the complete record submitted, Ecology has determined that the City proposed amendments, subject to and including Ecology's required and recommended changes (itemized in Attachment 1), are consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions).

Next Steps

- Consider the changes recommended by Ecology as required and recommended to resolve the issues identified above and within Attachment 1. Please let me know if you would like to discuss alternative language or different approaches for resolving these issues.
- If these issues are resolved prior to local adoption, we anticipate being able to approve your SMP Periodic Review amendment "as submitted" promptly after formal submittal is provided consistent with WAC 173-26-110.

10.7.2019 City of Kirkland SMP Periodic Review Initial Determination of Consistency -

Ecology Recommendations to Resolve Issues Identified as Required and Recommended, October 7, 2019

The changes in **red** are **required** to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in **blue** are **recommended** and consistent with SMA (RCW 90.58) policy and the SMP Guidelines (WAC 173-26, Part III).

Item	SMP Provision	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
Rec-1	Comprehensive Plan XVI. Shoreline Areas Subsection 2. Shoreline Environment Goal SA-13: Preserve, protect, and restore the shoreline environment	Critical areas found within the shoreline area include geologically hazardous areas, frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas. Floodplains, while not a designated critical area, are also addressed in this section due to the relationship with frequently flooded areas within the City. No critical aquifer recharge areas are mapped within the City. Critical areas in the shoreline area are <u>subject to regulated by the critical areas regulations contained in Chapter 90 KZC critical areas regulations incorporated and included</u> by reference into the City's SMP.	Recommended change: modify this policy reference for internal consistency with KZC 83.490, to add clarity and reduce the likelihood of future implementation or interpretation challenges.
Rec-2 Req-1	KZC 83.160 User Guide Subsection 1.c.	1. Explanation of Uses Table – The table contained in KZC 83.170 identifies uses and activities and defines whether those uses are prohibited, permitted by application for exemption or shoreline substantial development permit, or permitted by a shoreline conditional use permit. <u>The Shoreline Management Act (SMA) establishes three types of shoreline permits: substantial development permit, conditional use permit, and variance permit. Proposals for development and activities within shoreline jurisdiction may require one, two or all of those permits – or none at all. When a substantial development permit and a conditional use or variance permit are required for a development, the permits shall be issued concurrently.</u> If a use is not specifically listed, then it may be considered through a shoreline conditional use permit (see Chapter 141 KZC). The following symbols apply: a. "X" means that the use or activity is prohibited in the identified Shoreline Environment. Shoreline uses, activities, or conditions listed as prohibited shall not be authorized through a variance, conditional use permit, or any other permit or approval. b. "SD" means that the use or activity may be permitted by approval of the Planning Official through a letter of shoreline exemption (see Chapter 141 KZC) or through a shoreline substantial development permit (see Chapter 141 KZC). c. "CU" means that the use or activity may be permitted by approval of the Planning Official and Department of Ecology through a shoreline conditional use permit (see Chapter 141 KZC). Uses that are not specifically prohibited under KZC 83.170 may be authorized through a shoreline conditional use permit. A conditional use permit must also meet criteria for a substantial development permit.	Recommended Change: The proposed modification, underlined in the column to the left, is intended to clarify the permit system consistent with WAC 173-27. Required Change: Delete the addition, because it is not consistent with WAC 173-27. If a proposal meets the definition of substantial development and it doesn't meet any of the exemptions listed in WAC 173-27-040, then a Substantial Development Permit is required. The associated use or shoreline modification may also trigger a Shoreline Conditional Use Permit or the proposed development may need a variance to one of the SMPs bulk, dimensional, or performance standards. These are separate permits related to development, use, and standards. A CUP does not always trigger a SDP, for example, a change of use within an existing structure where no exterior alterations or other development action is proposed may only require a CUP.WAC 173-27-140 through 170 provides the different review and approval criteria for each of these permit types.

10.7.2019 City of Kirkland SMP Periodic Review Initial Determination of Consistency - Attachment 1

<p>Req-2</p>	<p>KZC 83.260 General</p>	<p>1. See KZC 83.360 for no net loss standard and mitigation sequencing for Conditional Use Permits or Variances, or where specific regulations <u>and mitigation measures</u> for a proposed use or activity are not provided in this chapter such as marinas and multifamily piers.</p>	<p>Required Change: Modify to clarify that the SMP no net loss standard and requirement for mitigation sequencing apply to all new development and use, but a NNL report is not required for proposed uses and activities where the SMP provides prescriptive mitigation sequencing measures, BMPs, and compensatory mitigation pre-designed to meet the SMP no net loss standard. The recommended modification, underlined in red in the column to the left, is intended to clarify that the requirement to complete mitigation sequencing and provide a no net loss analysis applies to any proposed use of activity where the SMP does not already include prescriptive mitigation measures.</p>
<p>Req-3</p>	<p>KZC 83.490 Critical Areas: Wetlands, Streams, Fish and Wildlife Habitat Conservation Areas, and Frequently Flooded Areas</p>	<p>1. Applicable Critical Areas Regulations – The following critical areas and their buffers located within shoreline jurisdiction are subject to shall be regulated in accordance with the provisions of KZC Chapter 90-Critical Areas, adopted [Date to be added] (Ordinance # __), which is herein incorporated by reference into this SMP, with the exclusions, clarifications and modifications contained in this section.</p> <ul style="list-style-type: none"> a. Wetlands b. Streams c. Fish and wildlife habitat conservation areas d. Frequently flooded areas; and e. Vegetative buffers required for the above. <p>2. Review Process – <u>The critical areas regulations of KZC Chapter 90 incorporated by reference are provisions of the SMP to be regulated along with the other provisions of KZC Chapter 83 through the Shoreline Administration process of KZC Chapter 141.</u> The City shall consolidate and integrate the review and processing of the critical areas aspects of the proposal with <u>in</u> the shoreline permit or review required for the proposed activity. Any references in <u>KZC Chapter 90 to process, decision making authority, or KZC Chapter 145, standards or decision criteria are supplemental and</u> do not replace the SMP requirements contained within this chapter and Chapter 141. <u>Any additional decision criteria and submittal requirements within KZC Chapter 90 shall be considered supplemental to the shoreline permit or review required for the proposed activity.</u></p> <p>3. Conflicting Provisions -- Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with the provision adopted by reference and the Shoreline Master Program. Within shoreline jurisdiction, the regulations</p>	<p>The City is proposing to go from a standalone Shoreline Master Program to a more integrated approach which includes the incorporation of policies and regulations in other Kirkland Zoning Code Sections to satisfy the critical area provision requirements of the SMA.</p> <p>1. Required Change: modifying this incorporation provision to add clarity and reduce the likelihood of future implementation or interpretation challenges. Stating that critical areas in the shoreline are regulated by Chapter 90, is not entirely accurate. Some of the critical areas regulations of Chapter 90 have been incorporated by reference into the SMP; as part of the SMP these critical areas are regulated through the authority of the SMA via Chapter 83 and 141 and must be reviewed and permitted consistent with those authorities.</p> <p>2. Required Change: modify this section to add clarity and reduce the likelihood of future implementation or interpretation challenges. This is not a consolidated or integrated review of both a critical areas permit and shoreline permit, it is only</p>

Ecology and the City of Kirkland initially accepted public comments on the proposed SMP update during a 30-day joint public comment period from April 8 through May 8, 2019, and at a joint public hearing in Kirkland on April 25, 2019. Comments continued to be received and accepted by the City after the close of the joint public hearing through a second hearing held by the City on July 25, 2019. Notice of the comment period and public hearing was published in *The Seattle Times* on March 25, 2019, and notice was sent to over 1,300 shoreline jurisdiction property owners, project list serv subscribers, stakeholders, and parties of record. One person provided oral comment at the public hearing on April 25, and twelve people provided oral comment at the public hearing on July 25. 62 written comments from individuals or organizations were also received as summarized in Table 1 below. Table 2 provides a summary of issues raised during the comment period as well as a response to the issues raised pursuant to WAC 173-26-104 (2).

Table 1 (below) lists all the individuals or organizations that provided comment and reference to each particular topic/issue as summarized in Table 2 beginning on page 5.

TABLE 1: LIST OF COMMENTERS AND WHERE THEIR COMMENTS MAY BE FOUND IN THE COMMENT SUMMARY TABLE		
COMMENT NO.	ORGANIZATION - COMMENTER NAME (DATE RECEIVED)	SUMMARY/RESPONSE (TABLE 2 – BELOW)
1	<i>Muckleshoot Indian Tribe Fisheries Division</i> - Karen Walter (5.8.19)	B-4, B-5, B-6, B-7, B-8, B-9, B-10
2	<i>Puget Sound Energy</i> (4.23.19)	C-1, C-2, C-3, C-4, C-5, C-6
3	Dallas Evans (4.18.19 email, 4.25.19 oral hearing comments, 3.2.19 letter, 5.10.13 email, 5.13.19 (2) emails)	A-1, B-15, G-1, G-2, E-3, E-4, E-2, B-11
4	Richard Sandaas (5.8.19, 5.13.19, 5.16.19, 5.17.19, 6.30.19, 7.25.19 oral hearing comments)	A-1, E-4, D-2, B-11, B-8, D-3, E-2, F-1, B-19, G-1, B-12
5	Abby Moore (5.8.19)	A-1
6	Robert C. Welford (5.8.19)	A-1, B-3
7	Bryan Loveless (5.6.19, 5.8.19, 7.1.19, 7.25.19 oral hearing comments)	A-1, B-3, B-11
8	Chantal Balcom (5.8.19)	A-1, B-3, B-15, G-1, G-2, E-3, E-4, E-2, B-11
9	Russ Sach (5.8.19)	A-1
10	Rashno Davoodi (5.8.19)	A-1
11	Pamela Sursely (5.8.19)	A-1
12	“Stacy” (5.8.19)	A-1, B-3, G-1, G-2

TABLE 1: LIST OF COMMENTERS AND WHERE THEIR COMMENTS MAY BE FOUND IN THE COMMENT SUMMARY TABLE		
COMMENT NO.	ORGANIZATION - COMMENTER NAME (DATE RECEIVED)	SUMMARY/RESPONSE (TABLE 2 – BELOW)
13	Dave and Cindy Flynn (5.8.19, 5.21.19)	A-1, B-3, B-15, E-3, E-4, E-2, B-11, G-1, G-2
14	Dave Rumpf (4.28.19)	E-2
15	Dean and Gretchen Young (5.8.19)	A-1, B-3
16	Dori Slosberg (5.8.19, 7.1.19)	A-1, B-1, B-3
17	Edward Slosberg (5.8.19)	A-1, B-3
18	Enrica Zeggio (5.8.19)	A-1
19	Hossein Sabour-Mohajer (5.8.19)	A-1
20	Karen Levenson (4.24.19)	B-17
21	Launa Johnson (4.25.19)	B-18
22	Launa Johnson (4.25.19)	B-18
23	Kevin and Lora Cruze (5.7.19, 5.11.19)	A-1, B-15, G-1, G-2, E-3, E-4, E-2, B-11
24	Tom Sterken (5.8.19)	A-1
25	Lyle Gradden (5.8.19)	A-1
26	Mark Enstrom (5.8.19)	A-1
27	Mary and Dave Rumpf (5.3.19)	B-2
28	Mary Shaber (5.8.19)	A-1, B-3
29	Megan Lenseigne (4.25.19)	E-2
30	Nancy and David Auth (5.8.19)	A-1, B-3
31	Pam Crowley (5.8.19)	A-1
32	Parivash Khajavi (5.8.19)	A-1

TABLE 1: LIST OF COMMENTERS AND WHERE THEIR COMMENTS MAY BE FOUND IN THE COMMENT SUMMARY TABLE		
COMMENT NO.	ORGANIZATION - COMMENTER NAME (DATE RECEIVED)	SUMMARY/RESPONSE (TABLE 2 – BELOW)
33	Patrick Smith (5.8.19)	A-1
34	Rich and Becky Budke (5.8.19)	A-1
35	Ross Baharmast (5.2.19)	A-1
36	Moe Krabbe (6.17.19)	E-3, E-4
37	Henry Brown (5.23.19, 6.17.19)	A-1, E-3, E-4, F-2, G-1, B-12, E-2
38	Greg Gunther (5.22.19)	B-16
39	Katherine Kearny (6.19.2019, 7.3.19)	B-12
40	Bruce Lingle (5.22.19)	A-1, B-3
41	Julie Taylor (5.21.19)	E-4, E-2, B-12, E-1
42	Christopher and Marsha Nelson (6.27.19)	G-1
43	Dean Young (6.30.19)	B-1
44	Rebecca Penn and John Beck (7.1.19)	F-1
45	Stacey@wyngateproductions.com (7.1.19)	A-1, B-1, B-3, B-11
46	Enrica Zeggio (7.1.19)	B-1
47	Mark Nelson (7.1.19, 7.25.19 oral hearing comments)	A-2
48	Calvin Knapp Jr. and Beth Malone (7.1.19)	B-11
49	Ross Baharmast (7.1.19)	G-1, G-2
50	Jerald and Misty Pruner (7.1.19)	B-2
51	Wilbur and Sharon Smith (7.12.19)	B-1
52	Allen Schwartz (7.13.19)	B-1

TABLE 1: LIST OF COMMENTERS AND WHERE THEIR COMMENTS MAY BE FOUND IN THE COMMENT SUMMARY TABLE		
COMMENT NO.	ORGANIZATION - COMMENTER NAME (DATE RECEIVED)	SUMMARY/RESPONSE (TABLE 2 – BELOW)
53	Ian and Donna LeGrow (7.14.19)	E-3, E-4, G-1
54	James Carroll (7.15.19)	B-1
55	Gary Gelow (7.15.19)	B-1
56	Ken Davidson (7.22.19, 7.25.19 oral hearing comments)	E-4, G-1, G-2
57	Robert Horwitz (7.23.19)	B-11, B-1
58	Jack and Marilyn R (7.24.19)	G-1, G-2, E-1, E-3, D-1
59	Mary Rumpf (7.24.19)	B-2
60	W. Larne Gabriel (7.24.19)	B-1
61	Scott Morris (7.25.19)	A-2, E-2, G-1, G-2
62	James H. Miller, Chris DiJulio, Mike Looney (7.25.19)	B-1
63	Scott Morris (7.25.19 oral hearing comments)	A-1, B-11, E-2, G-1, G-2, D-3, D-4
64	Chris Nelson (7.25.19 oral hearing comments)	G-1
65	Michele Kenny (7.25.19 oral hearing comments)	A-1, G-1, B-3
66	Russ Sack (7.25.19 oral hearing comments)	A-1, B-11
67	Richard Lures (7.25.19 oral hearing comments)	G-1
68	Lee Thornson (7.25.19 oral hearing comments)	B-11, B-3, G-1, E-4
69	Annie Williams (7.25.19 oral hearing comments)	B-11
70	Loren Gabriel (7.25.19 oral hearing comments)	B-11, A-2

Table 2 (below) summarizes comments by topic and provides a response from the City. Please note, the statements below are not the opinions or comments of the City of Kirkland, but rather a summary of SMP issues received during the public comment period.

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
Review Process				
A-1	Transparency and outreach	3,4,5,6,7,8,9,10,11,12, 13,15,16,17,18,19,23, 24, 25,26,28, 30, 31,32,33,34, 35, 37, 40, 45, 63, 65, 66	Several comments received expressed the opinion that the process was being moved along too quickly without adequate awareness and input from shoreline property owners. Commenters requested additional time and forums to help understand the changes and provide feedback.	<u>Comment noted. Comment period was extended.</u> In accordance with Ecology requirements, a public participation plan was developed at the beginning of the process and was implemented throughout. This included noticing all shoreline property owners with a direct mailing prior to the first public comment period and hearing. After completion of the first comment period and hearing the City met, or exceeded the public involvement requirements required by Ecology for a SMP periodic update. However, in response to the comments received indicating that many shoreline property owners were not aware of the update and wanted more time to comment, the public involvement process was extended. Two additional public meetings were held as well as individual meetings with key stakeholders. A FAQ document was created and posted to the SMP website to answer some recurring questions along the way, which supplements this response to comments, and written stakeholder input was directly requested in the form of a topic summary matrix circulated to interested parties. A second public hearing was held on July 25, 2019 and all comments received from the beginning of the first comment period through the close of the second hearing are being addressed in this matrix.
A-2	Scope of periodic update	47, 61, 70	Some comments requested that the scope of revisions be limited to those required by state law which are the minimum a periodic update must include. Commenters felt the updates were advertised as minor when really they would have significant repercussions for shoreline property owners.	<u>Comment noted.</u> The revisions required by law are presented in the SMP checklist. The City is choosing to propose additional revisions beyond the minimum required as the periodic update is an opportunity to make adjustments to the SMP based on the experience of staff and property owners during the administration of the SMP since 2010. The revisions proposed are intended to be minor adjustments and clarifications to the existing code, not a major update.

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
General Comments				
B-1	General opposition to the proposal	43, 46, 52, 62, 51, 54, 55, 60	Several comments expressed general opposition to the updates and/or requested that no changes be made at all to the SMP.	<p><u>Comments noted.</u></p> <p>State law requires jurisdictions to review and update their SMPs every eight years in accordance with the Shoreline Management Act, RCW 90.58.080 (4) and its current guidelines and legislative rules. The majority of the proposed amendments are clarifications and “clean-up” changes which maintain the same underlying regulation with adjusted text, allowing applicants and staff clarity when submitting or reviewing code.</p>
B-2	General support for the proposal	14, 27, 50, 59	Some comments expressed general support for the updates, or for a particular aspect of the updates.	<p><u>Comments noted.</u></p>
B-3	Financial Implications	7,13,16,17, 30, 40, 65, 68	Several comments were concerned with the perceived negative impact the proposed amendments would have on property values. Some questioned whether the City had conducted any analysis of the proposed amendments effect on fair market value of properties.	<p><u>Comment noted.</u></p> <p>The revisions proposed are intended to be minor adjustments and clarifications to the existing code, not a major update. Existing development, including nonconforming structures, continue to be allowed to be maintained. A specific fiscal analysis was not within the scope of this update. See additional discussion below of nonconforming development.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
B-4	Treaty rights	1	The Muckleshoot Tribe noted previous comments submitted on the SMP during the comprehensive update process in 2009 which requested acknowledgment of the importance of Lake WA for tribal fishing rights. The comment requests SMP revisions to reflect that shoreline and in-water projects can negatively impact the Tribe’s access to fisheries resources, as well as requesting early coordination for all in-water work.	<p><u>Comment noted. Revision proposed.</u></p> <p>The SMP already includes provisions for protection of fisheries resources as well as archeological and historical resources. While these provisions do not specifically reference the Muckleshoot Tribe, they are designed to protect these resources for all shoreline and lake stakeholders. The City routinely coordinates with the Tribe on in-water work through the SEPA process.</p> <p>To more specifically acknowledge the Tribe’s right to access fisheries resources the following text is proposed to be added to SMP section 83.420.1:</p> <p><i>Treaty Rights - The Muckleshoot Indian Tribe has federally-protected treaty rights to fisheries resources within their usual and accustomed areas (“U&A”), including access to these resources. Kirkland’s regulated shoreline areas are a subset of the Muckleshoot Tribe’s larger “U&A” area. Activities and development regulated under this Shoreline Master Program have the potential to impact treaty-protected fisheries resources and tribal members’ ability to access to these resources. Accordingly, the City will work with the Muckleshoot Tribe to ensure that permitted projects do not unduly impede or impair in-water or upland tribal fishing access.</i></p>
B-5	Culverts	1	The Muckleshoot Tribe commented on the federal court decision regarding barrier culverts as an impediment to treaty rights and requested a broader definition to “culvert”. They also noted the culvert standards language in 90.40.05 is limited in terms of requirement replacements for fish passage.	<p><u>Comment noted. No revision proposed.</u></p> <p>Few culverts that are currently fish passage barriers are known within the City’s shoreline jurisdiction, according to WDFW’s fish passage map (https://geodataservices.wdfw.wa.gov/hp/fishpassage/index.html). The SMP includes policies and regulations to ensure significant projects provide fish passage including 83.230.5.c which requires any street expansion affecting streams to be designed to allow fish passage.</p> <p>Critical areas regulations also address culverts and fish passage including requiring design to meet Washington Department of Fish and Wildlife’s guidelines. The CAO also has regulations encourage stream daylighting.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
B-6	Stream daylighting	1	The Muckleshoot Tribe stated that KZC 90.75 standards for stream daylighting lack the requirement to daylight streams when there is a project near piped streams and it could be done as part of the project.	<u>Comment noted. No revision proposed.</u> Provision 4 of the noted stream daylighting section, 90.75.4, states that the City may require a stream to be daylighted as part of a Process IIA permit pursuant to Chapter 150 KZC or IIB permit pursuant to Chapter 152 KZC if the required daylighting is proportionate to the scope and nature of the Process IIA or IIB permit.
B-7	Aquaculture prohibition	1	The Muckleshoot Tribe asked for explanation why aquaculture is a prohibited use in all shoreline designations. They note it is a water dependent use and can vary by size such as a small egg box.	<u>Comment noted. No revision proposed.</u> There is no change proposed to this provision as part of the periodic update. The decision was made by the City at the time of the comprehensive update in 2010 to prohibit all aquaculture as it was not a desired shoreline use in the city.
B-8	Geothermal projects	1, 4	The Muckleshoot tribe expressed support for prohibition of geothermal projects in Lake WA as they could harm salmon and their habitats. Other commenters expressed disapproval of this prohibition.	<u>Comments noted. No revision proposed.</u> The prohibition is intended to clarify that geothermal heat pumps are not permitted waterward of the OHWM. Proposals for geothermal heat pumps in the lake have previously been rejected because the code currently prohibits locations that adversely impact ecological functions. The revision supports those provisions. Viable upland alternatives exist to install geothermal systems.
B-9	Beaver management	1	The Muckleshoot Tribe expressed opposition to the proposed exemption for beaver management actions which have received an HPA from WDFW due to the fact that beaver deceivers can be a barrier for salmon. They would like mitigation sequencing to be demonstrated and fish passage monitoring required, which they say is not consistently required by WDFW.	<u>Comment noted. No revision proposed.</u> The proposed exemption for beaver management is intended to streamline the approval process, in some cases to protect fish passage. WDFW is a primary agency concerned with fish passage and it is appropriate to defer to them and expect that they would condition the HPA appropriately if fish passage needed to be addressed.

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
B-10	Urban stream designation	1	The Muckleshoot Tribe expressed opposition to the proposed urban stream designation as they felt it did not consider legal requirements for removal of fish barriers and could result in a net loss of riparian functions.	<p><u>Comment noted. Revision proposed.</u></p> <p>The proposed “urban stream designation” was meant to formalize criteria for determining when fish habitat is not recoverable, in streams where it is not currently present, for the purpose of determining an appropriate buffer width. The city has continued to review this approach and has removed the urban stream designation from the CAO. Instead, a new limited buffer waiver has been added to Chapter 90.120.2 which allows the Planning Official to apply a Type N stream buffer, instead of a Type F buffer on a project by project basis if, based on an analysis of established criteria, fish habitat in the subject area could not reasonably be recovered by restoration or management. The new buffer waiver will not apply within shoreline jurisdiction.</p>
B-11	Scientific basis for proposals	3, 4, 23, 45, 48, 63, 66, 68, 69, 70	Some commenters questioned the science proposed as rational for some revisions, including the use of Kirkland shorelines by salmon.	<p><u>Comment noted.</u></p> <p>The State requires shoreline regulations to use “the most current, accurate and complete scientific and technical information available”. When the current SMP was developed, extensive background documentation was prepared to ensure these standards were met and to help understand the City’s baseline condition. The City referred to many scientific studies to help align the goals and policies to accommodate environmental improvement of the shoreline and lake ecosystem. The scope of the periodic update does not include re-visiting the science used in 2010 for the comprehensive update. The current proposals are supported by the science the 2010 regulations were based on.</p> <p>Salmon are known to use Lake Washington and that could include Kirkland shorelines. Thus, there are regulations aimed at salmon habitat protection and restoration. However, it is important to note that the SMA also applies to shorelines that do not have any salmon use. SMPs for non-salmon bearing waters still have dimensional standards for overwater structures etc. It is not exclusively the use of Kirkland’s shorelines by salmon that are driving the regulations.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
B-12	Milfoil removal noticing	1, 37	<p>The Muckleshoot Tribe expressed support for the proposed amendment to require notification to the City and neighbors of chemical milfoil management. They noted other aquatic plants, such as elodea are also sprayed with aquatic pesticides so the City should consider expanding its review beyond milfoil. They also noted the City should inform Ecology staff administering the aquatic pesticides NPDES program of regulatory changes and provided the contact.</p> <p>Another commenter expressed support of the required notification to the City and neighbors because of safety concerns. She noted that current notification policies in place by other agencies are not adequate and requested a specific timeframe be included in the notice.</p> <p>Finally, a number of comments were received disproving of the proposed amendments as they felt they were overly burdensome to applicants.</p>	<p><u>Comments noted. Revision proposed.</u></p> <p>The City was considering revisions to the chemical milfoil removal notice requirements dependent on the outcome of Ecology’s revisions to their notice process which were occurring simultaneously. The City wants to ensure that adequate notice is provided to neighbors, but does not intend to add a redundant requirement if such notice is provided through another agency.</p> <p>After reviewing Ecology’s recently revised Aquatic Plant and Algae Management General Permit, released July 5, 2019, the City finds the original milfoil noticing proposal added to the SMP to be duplicative to the notification process already required by Ecology. Therefore, the revision proposed to 83.480.3 has been removed from the current draft of the SMP.</p>
B-13	Lighting	1	<p>The Muckleshoot Tribe asked the city to reconsider the exemptions to lighting standards in 83.470.2.b based on new information regarding artificial lighting impacts to salmon (Tabor et al 2017).</p>	<p><u>Comment noted. No revision proposed.</u></p> <p>The exemptions to the lighting standards are for temporary or shorter term lighting uses which do not warrant the level of regulation that permanent light sources do. Any impacts from the exempt lighting would be temporary.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
B-14	Piolet program to evaluate "remediation measure" effectiveness	4	One commenter referred to comments he had submitted at the time of the comprehensive SMP update questioning whether the "remediation measures" proposed would provide the intended results (environmental benefits). He proposed a pilot program be initiated to evaluate effectiveness and states he received a commitment from the city that such a program would be initiated. He asks whether that ever happened and what the results were.	<p><u>Comment noted.</u></p> <p>No pilot program to evaluate effectiveness has been started at this time. However, on a project by project basis monitoring of mitigation projects is required and reviewed by the City. Based on the projects completed since the 2010 Comprehensive Update, the City has recorded just over a half an acre of newly planted shoreline riparian area with native vegetation, the planting of 158 native trees and the <u>voluntary</u> removal of approximately 230 feet of bulkhead. The projects that have removed hard stabilization measures (bulkheads) and replaced with soft shorelines have been successful through the monitoring period of five years. Specifically the Taylor and Bendich properties have been successful examples of bulkhead removals and installation of soft shoreline stabilization and are leaders in the Green Shores for Homes program, which is a certification program developed by Washington SeaGrant. There have been additional questions about the placement of spawning gravel in the Lake, but this is a State (rather than City) requirement and the City has not monitored the success of such measures.</p>
B-15	No net loss standard	3,8,13	Some comments stated they felt the proposed changes went beyond the requirement for no net loss which only requires that functions remain the same as the baseline established during the comprehensive update, not that they be further improved.	<p><u>Comment noted.</u></p> <p>At a minimum, proposed revisions must not result in a net loss of the baseline shoreline ecological function established at the time of the comprehensive update. However, the City also has goals and policies which promote ecological improvement and restoration of degraded function over time. The proposal must also consider the cumulative effect of the entire suite of SMP provisions which includes some regulations more protective than others. Proposed revisions are intended to meet the no net loss standard while providing predictability for the applicant as well as flexibility, where appropriate.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
B-16	Bald eagle listing	38	One commenter expressed support for the possibility of designating the bald eagle as a species of local importance.	<p><u>Comment noted.</u></p> <p>Shortly after adoption of the current Chapter 90, the bald eagle was delisted by the state and federal governments due to the remarkable success of recovery efforts. Because the bald eagle is no longer designated as a protected species it no longer meets the criteria for wildlife species of local importance. The City does have the option of designating the bald eagle locally and adding it back onto the list of species of local importance, but that would require the City to develop management strategies without the support of agencies with expertise. For the same reasons that the state and federal agencies delisted the bald eagle and because the City relied on their expertise to regulate the species, staff recommends against local designation of the bald eagle. The Planning Commission concurred with the staff recommendation to continue the status quo (no local listing) but instead deferring to the U.S. Fish and Wildlife Service and the federal protection of the Bald and Golden Eagle Protection Act.</p>
B-17	Concern with recent LED light installation	20	One commenter expressed concern with a recent project that she says installed LED lights in the shoreline setback without evaluating lower impact options.	<p><u>Comment noted.</u></p> <p>This comment was not in regard to the proposed SMP changes. No changes are proposed to lighting standards or mitigation sequencing requirements. Project specific inquiries can be handled outside of the scope of the periodic update process.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
B-18	Juanita Beach	21, 22	One commenter requested play areas for smaller kids be installed at Juanita Beach and expressed concern with the location change of the bathhouse.	<p><u>Comment noted.</u></p> <p>These comments are not in regard to the proposed SMP updates. The proposed updates would not change the City's ability to install such play areas if desired and the bathhouse replacement project is undergoing its own public process.</p>
B-19	Aspirational policy for removal of residential overwater structures	3, 68, 4	A few commenters expressed concern with the aspirational policy added to the comprehensive plan in regard to removal of residential overwater structures.	<p><u>Comment noted. Revision proposed.</u></p> <p>The aspirational policy to promote opportunities to remove overwater residential structures over time was included at the request of a planning commissioner. In response to public comment and further planning commission discussion, it has been removed from the draft.</p>
Utilities				

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
C-1	Definitions	2	<p>PSE suggested the following change to the definition of “Utility Transmission Facilities”-</p> <p>“Infrastructure and facilities for the conveyance of services, such as electrical transmission lines <u>operating at 115kv or higher</u>, cables, natural gas pipelines <u>operating at 60 psi or greater</u>, and sewer pump lift stations.</p>	<p><u>Comment noted. Suggested revision accepted.</u></p> <p>PSE clarified that the “transmission” definition in the energy business means a facility that is operating above the pressure or voltage suitable for distribution to customers, etc., and such voltage or pressure is set for the transportation of energy to a particular area – not intended for consumption. Specifying the pressure and voltage clarifies the City’s intent to denote transmission facilities with this definition, rather than distribution.</p> <p>83.80 is proposed to be revised as follows: 131. Utility Transmission Facilities – Infrastructure and facilities for the conveyance of services, such as power lines <u>electrical transmission lines operating at 115kv or higher</u>, cables, and natural gas <u>pipelines operating at 60 psi or greater, and sewer pump lift stations.</u></p>
C-2	Shoreline Environments, Permitted and Prohibited Uses and Activities Chart	2	<p>PSE suggested the following change to the Shoreline Environments, Permitted and Prohibited Uses and Activities Chart:</p> <p>Utility transmission facilities, footnote 24: This use may be allowed provided there is no other feasible route or location outside the shoreline environment. Must be underground, unless not feasible, <u>or if undergrounding will result in more net loss of shoreline ecological functions than overhead facilities. Undergrounding shall be facilitated in accordance with all applicable rates and tariffs on file with the WUTC.</u></p>	<p><u>Comment noted. No revision proposed.</u></p> <p>83.240.b and f already adequately cover the siting of utilities. The City also does not need to list other agencies regulations.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
C-3	Lot Size or Density, Shoreline Setback, Lot Coverage and Height	2	PSE suggested the following change to Shoreline Setback regulations regarding allowed improvements within the setback (83.190.2.d.5): 5) Underground utilities accessory to a shoreline use approved by the Planning Official, provided there is no other feasible route or location <u>outside the shoreline environment, where undergrounding may result in a greater impact to the shoreline environment, and in accordance with all applicable rates and tariffs on file with the WUTC.</u>	<u>Comment noted. No revision proposed.</u> 83.240.b and f already adequately cover the siting of utilities. The City also does not need to list other agencies regulations.
C-4	Utilities general regulations	2	PSE suggested the following change to the general utilities regulations, 83.240: j-h. Utilities shall provide screening of facilities from the lake and adjacent properties in a manner that is compatible with the surrounding environment. The City will determine the type of screening on a case-by-case basis, <u>provided that all clearance requirements required under WAC and NESC are able to be maintained, screening does not cause deviation from such code, and screening is consistent with "Landscape Plans and Utility Plans" noted in the tree management and required landscaping section of the Kirkland Zoning Code.</u>	<u>Comment noted. No revision proposed.</u> The reference to other parts of the zoning code is not necessary and the City does not need to refer to other agencies regulations.
C-5	Construction and Maintenance	2	PSE suggested the following change to the utilities construction and maintenance regulations, 83.240.2.b: b. Clearing of vegetation within utility corridors shall be the minimum necessary for installation, infrastructure maintenance and public safety, <u>including but not limited to, tree removal as deemed required by the utility to eliminate an imminent threat to the safety and reliability of the facility.</u>	<u>Comment noted. No revision proposed.</u> The provision for clearing of vegetation in utility corridors does not exclude tree removal, if it is the minimum action necessary for installation, maintenance and public safety. Additionally, this is already addressed in 95.20.2. Therefore, the City feels the suggested change is not necessary.

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
C-6	CAO Vegetative Buffer Standards	2	PSE suggested the following change to the Vegetative Buffer Standards in 90.130.3.b.3: 3. For new utility poles the buffer shall be calculated based on the combined area of all new utility pole footprints and be vegetated at a minimum of 1:1 ratio (net new impervious area equals total square feet of buffer vegetation), meeting the vegetated buffer standard at a proportional rate. <u>Vegetation to be coordinated with the utility to mitigate conflicts to the safety and reliability of the facilities, and consistent with the "Landscape Plans and Utility Plans" noted in the tree management and required landscaping section of the Kirkland Zoning Code.</u>	<u>Comment noted. No revision proposed.</u> The references suggested are not applicable.
Tree Management and Vegetation in Shoreline Setback				
D-1	Alternative design option	27, 58	One commenter supported the removal of the administrative design approval option that allows a longer and/or wider pier than Chapter 83 KZC permits if federal and state agencies approve the deviation, while others requested to see this option continue. A few commenters specifically referenced the applicability of this provision, and their support or opposition to the controversial Bel Lago pier project in Juanita Bay.	<u>Comment noted. No revision proposed.</u> The administrative approval option is not required and has rarely been used since it was implemented as an option. When it was used Staff found that federal and state agencies do not have firm standards but rather use biological analysis to approve deviations from the City's pier standards. In one case, state and federal agencies were going to approve a multifamily pier in very shallow water within Juanita Bay that both staff and the Muckleshoot Tribe determined would have significant impacts to salmon, navigation and the ecological function of the lake. The City prefers to maintain local control of the pier regulations by removing the administrative design approval option.

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
D-2	Green shorelines pamphlet	4	One commenter specifically questioned the accuracy and credibility of portions of the "Green Shorelines" pamphlet which he feels has be incorporated into many approaches in the SMP.	<p><u>Comment noted.</u></p> <p><i>Green Shorelines: Bulkhead Alternatives for a Healthier Lake Washington</i> is a guidebook produced by the City of Seattle to help property owners on Lake Washington and Lake Sammamish understand options for their waterfronts other than hard structural armoring. While not specifically incorporated into the SMP, the principles the guidebook describes are intended to benefit the lake ecosystem and thus are appropriate approaches for the SMP to consider, along with the other priorities established by the Shoreline Management Act. Restoration practices are always evolving but qualified shoreline professionals consider the approaches in the guidebook- such as setting back bulkheads, use of wood and plantings, and beach coves, to be effective ways to restore or preserve shoreline ecological function.</p>
D-3	Function of trees along shoreline	3, 4, 63	Several commenters questioned the rationale for requiring tree planting in shoreline setbacks and requested that the alternative option for planting required vegetation in shoreline setbacks provided in 83.400.3.f be retained.	<p><u>Comment noted. Revision proposed.</u></p> <p>Shoreline mitigation planting standards established in KZC 83.400 are not proposed to be changed, except for minor clarifications. Trees are an important component of ecological functions along the shoreline, providing both habitat and water quality functions. The overhanging vegetation provided by trees (and larger shrubs) planted along the shoreline provides organic input critical for aquatic life. It provides food in the form of various insects and other detritus that feeds benthic macroinvertebrates and provides beneficial cover for juvenile Chinook that use the nearshore environment.</p> <p>However, the City recognizes that the 83.400.3.f alternate compliance option provides flexibility to the City and the applicant regarding when departures from required vegetation in the shoreline setback applies and the SMP has been revised to retain this option.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
D-4	Overwater coverage and salmonids	63	Several commenters questioned why overwater coverage is bad for salmon and felt that limiting the overwater coverage from docks conflicted with other SMP provisions which require overhanging vegetation as both the vegetation and docks are providing shade to the water.	<p><u>Comment noted.</u></p> <p>The dappled shade from vegetation overhanging the lake is a natural shading which provides cover for juvenile Chinook salmon that use the nearshore environment for predator avoidance, rest etc., plus the overhanging branches drop insects and debris which make up the diet of juvenile salmon and other small aquatic species. The grated decking required by all jurisdictions in Lake Washington (for the first 30 feet of the pier) mimics the 40% light transmittance, similar to native vegetation.</p> <p>In contrast, shading provided by overwater coverage, such as a dock, provides sharp edges and cover for predators of salmon and causes salmon migration paths to be diverted around the docks into deeper water where there tend to be more predators present.</p>
Pier Standards and Moorage buoys				
E-1	Pier bumpers	41,58	Some commenters expressed support for the proposal to add pier bumpers as an allowed feature. However, some also questioned the size standards proposed and expressed concern that a gap would be present large enough to allow a boat to slip under the bumpers and sustain damage.	<p><u>Comment noted. No revision proposed.</u></p> <p>There is only a 6 inch gap required between the lake surface at low water (in the winter on Lake WA to accommodate for construction activity). Design standards were the result of consultation with the Department of Fish and Wildlife. Pier skirting has been prohibited since the comprehensive update in 2010, and was removed then because it was not supported by BAS primarily because it creates shading for predator fish to hide. The proposed pier bumper regulations avoid skirting but still allow the boat owner additional protection. Individual bumpers off the boat may also still be used.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
E-2	Pier length/depth	3, 4, 27, 29, 37, 61, 63	<p>Several commenters expressed opposition to the removal of a depth standard for ells, fingers and platforms and the prioritization of pier length as the average of adjacent piers. Some comments noted neighboring cities have a depth standard and Kirkland's should also remain.</p> <p>A few commenters expressed support for the pier length standards as they were concerned about recent proposals for piers they felt were too long (Bel Lago). One commenter also opposed to the Bel Lago pier opposed the pier length standards for the same reason, claiming the new standards would clear the way for more long piers.</p>	<p><u>Comment noted. Revision proposed.</u></p> <p>The revisions proposed related to single family pier length and depth are intended to clarify how the provision is already administered and to provide more predictability to applicants in determining the allowable length for each property. As currently written the depth standard sometimes conflicted with other dimensional requirements and was difficult to administer. Allowed pier length is determined by the average of neighboring pier lengths and by navigation considerations consistent with the Shoreline Area policies in the Comprehensive Plan and the purpose and intent section of the SMP. The depth requirement for ells and floats is removed in the proposed draft, but the maximum length of 150-feet is not changed. Most boats in Kirkland do not need anywhere near the 9-10 feet depth for ells and floats required currently in the code. Some pier owners have proposed piers much longer than needed to obtain the required water depth when a shorter pier would have been adequate for both the needed water depth and boat size. The longer pier would have resulted in unnecessary impacts to navigation and environment on shorelines of the State. Long piers result in additional overwater coverage that can adversely affect juvenile salmon.</p> <p>However, in response to property owner comments, a revision has been proposed from the public comment draft. The proposed revision allows an applicant to propose a dock length that exceeds the average length of adjacent docks by up to 10% (but in no case may it be longer than 150 feet, as is now the rule). Currently, dock lengths are limited by existing code to the average of adjacent piers and additional length is only considered after demonstrating that the boat would bottom out on the lakebed if the length were limited to the average length of adjacent docks. With this change, docks may be longer than the average of neighboring docks by up to 10%, when there is a need for additional water depth, without demonstrating that they will not have an adverse impact on navigation. Beyond this length the pier owner would need to demonstrate that there is no adverse impact to navigation.</p> <p>The rationale for this change is to acknowledge that in some cases a longer dock than the average is necessary to provide adequate depth, and may be warranted as long as navigation is not adversely affected.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
E-3	Boat lifts	3, 36, 37, 53, 58	While no changes to the boat lift provisions were proposed in the public comment draft, several commenters requested allowance be added for more than one boat lift.	<p><u>Comment noted. Revision proposed.</u></p> <p>In response to stakeholder requests, the City has decided to propose allowance of an additional boat lift. Other jurisdictions on the lake allow multiple lifts and ecologically, it would not be detrimental to do so. Boat lifts allow boats to be stored out of the lake, which is better for water quality and fish habitat and can reduce shading impacts. The revised draft includes an allowance for “two freestanding or deck-mounted boat lifts per detached dwelling unit” (83.270.9).</p>
E-4	Moorage buoys	3, 4, 36, 37, 53, 68	While no changes to the mooring buoy provisions were proposed in the public comment draft, several commenters requested allowance be added for a moorage buoy in addition to a pier or dock, rather than in lieu of. Some of the comments stated that buoys were needed for safety, to delineate swimming/non-motorized recreation areas.	<p><u>Comment noted.</u></p> <p>In the current SMP, the number of moorage buoys per single family property is limited to one, and a moorage buoy is only allowed in lieu of a pier to provide moorage space. No change is proposed or recommended with this SMP periodic update to the existing regulations. Speed limit buoys are used to protect shoreline properties and water users from excessive wake and to demark the navigation channel. The use of moorage buoys to serve another purpose is beyond the scope of this periodic update without additional study, coordination, and notice. They are the responsibility of King County Sheriff’s Marine Unit (KCMU) and not within the purview of the SMP to regulate, maintain or enforce. The City Police Department is in contact with King County regarding the replacement of missing speed limit buoys.</p> <p>In the nonconformance section of the SMP (83.55.5.b.5.b) a change is proposed which would allow nonconforming moorage buoys to remain if it is documented that they were legally established prior to 1978.</p>
Bulkheads and Erosion				
F-1	Comprehensive plan policy to remove bulkheads at O.O. Denny Park	44, 4	One comment expressed opposition to the comprehensive plan policy change to remove bulkheads at O.O. Denny Park and another expressed concern that removal of the bulkhead would cause erosion.	<p><u>Comment noted. No revision proposed.</u></p> <p>The policy to reduce armoring in shoreline parks to improve and restore the aquatic environments already exists. The proposal simply adds O.O. Denny Park to the list of parks where opportunities exist to do so. The policy applies equally to all parks with shoreline armoring, O.O. Denny had just previously been left off the list.</p>

TABLE 2 : COMMENT SUMMARY/RESPONSE TABLE				
LINE	COMMENT TOPIC	COMMENT NO. (TABLE 1)	COMMENT SUMMARY	CITY OF KIRKLAND RESPONSE
F-2	Bulkhead removal	37	Some commenters expressed opposition to what they perceived as a requirement to remove bulkheads from residential properties.	<u>Comment noted. No revision proposed.</u> No changes are proposed to the requirements for bulkhead removal. Bulkheads are allowed to be retained or replaced through various code regulations. The SMP does not require the removal of a bulkhead except when more than 50% of the length of the bulkhead is proposed to be replaced and the primary structure on the property is located more than 10 feet away from the Ordinary High Water Mark and a needs assessment from a qualified professional (geotechnical engineer or geomorphological engineer) confirms that the bulkhead is not necessary to protect the primary structure.
Nonconformances				
G-1	Expansion of existing annexation area requirement that overwater boat houses and additional piers must be removed under certain circumstances, to the rest of the City	3,37, 42, 49, 53, 58, 61, 63, 64, 65, 67, 68	Several commenters wanted all existing nonconforming structures “grandfathered in”. Concerns were expressed about the value of nonconforming structures, especially boathouses, which property owners paid for when purchasing the property. Some commenters suggested using a trigger other than replacement value of upland development for bringing nonconformances into conformance.	<u>Comment noted. Revision proposed.</u> The code currently requires removal of certain conformances in the annexation area when certain development thresholds are triggered. This was a decision made at the time of the annexation, when the SMP was updated to apply to that area. Rolling back those regulations would require additional analysis that is beyond the scope of the periodic review. Therefore, the revised draft retains the existing requirement that overwater boat houses and additional piers must be removed under certain circumstances, only in the annexation area. However, in response to public and planning commission comments, the draft no longer proposes to extend these regulations to apply City wide at this time.
G-2	Clarification to the rules that Citywide, overwater nonconforming accessory structures waterward of the OHWM into the water must be removed with major alterations to the home/new home.	3,12, 13, 49, 56, 58, 61, 63	Several commenters did not want to see expanded requirements for removal of existing overwater structures.	<u>Comment noted. Revision proposed.</u> The current regulations already require nonconforming accessory structures in the shoreline setback to be removed or brought into conformance. The proposed revision is intended to clarify the original intent that accessory structure waterward of the OHWM (generally more impactful than those in the setback) also must be removed. Based on public comment received this provision (83.550.5.b.5.b) has been revised to remove boat launches from the list of structures which must be removed and clarify that existing boat launches may be continued.

Transparency and Outreach

1. How can property owners communicate directly with City Council about the impact of regulations on property owners?

Staff Response: Individuals may submit letters to City Council or may bring items from the audience during council meetings. The SMP Periodic Review process that the City is currently following with the Department of Ecology (Ecology), as well as through the City's additional public meetings and public hearing held and scheduled for Summer 2019, provide additional opportunities to identify any questions or concerns with the proposed code amendments. All written comments submitted to the Planning Department during the process will be included as attachments to the staff memorandums that will ultimately be considered by City Council, prior to their final decision on the amendments. See the City's [SMP Periodic Update website](#) for ways to submit comments and when public meetings will take place.

2. How are public comments incorporated into the planning process?

Staff Response: Public comments and questions are reviewed by City Staff and provide the necessary input from the community that helps assist in understanding the impacts of the proposed code changes. Comments from property owners, businesses, residents, agencies with jurisdiction, and other members of the public are encouraged to be submitted. As part of the Ecology Periodic Review process, staff compiles comments and provides responses. The comments are transmitted to Ecology with the City draft SMP amendments and other documentation. In addition, the Planning Commission and Houghton Community Council consider these comments when they make their recommendation to the City Council. Ultimately the City Council will consider all comments when they make their final decision on the proposed amendments to the SMP.

3. What is the timeline of the SMP process

Staff Response: State statute established a June 30, 2019 deadline for jurisdictions within King, Pierce, and Snohomish Counties (group A). The Department of Ecology may allow additional time to complete the mandatory update if requested. The City of Kirkland has requested additional time from the Department of Ecology in order to reopen the public hearing before the Planning Commission and Houghton Community Council and provide time for additional public outreach and response to comments. After a follow up public meeting and a second public hearing before the Planning Commission and Houghton Community Council, the City hopes to submit draft SMP amendments to the Department of Ecology for an initial determination of consistency with state laws and rules. The submission will include the draft amendments, periodic review checklist, response to public comments received, SEPA documents, GMA notice, public hearing record and other materials. As part of Ecology's review, they may provide required or recommended changes to the SMP, and the amendments may be revised further as appropriate. The final draft amendments will then be transmitted to the City Council for adoption. The Houghton Community Council will then provide their final approval. After local adoption, the amendments will be formally submitted to Ecology for final action. Ecology may either approve the amendments as adopted or may recommend or require changes necessary for approval.

4. What is the outreach process for public comment?

Staff Response: The Ecology Periodic Review process has required noticing standards that are established by [WAC 173-26-104](#). The City chose to exceed the minimum requirements and provided a courtesy postcard notice to stakeholders and property owners located within the shoreline jurisdiction. Approximately 1,300 shoreline property owners were sent the notice back in early February, 14 days prior to the Houghton Community Council and Planning Commission study sessions held on February 25 and February 28, 2019, respectively. On March 14, 2019, the City distributed public notice to 74 stakeholders, approximately 1,300 shoreline property owners, and individuals that signed up to the SMP

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listserv. The notice provided information on the Ecology Periodic SMP update process, invited public comment on the draft amendments available for view on the SMP update website during the joint Ecology/City comment period that ran from April 8, 2019 to May 8, 2019 and provided notice of the joint local and state public hearing held on April 25, 2019. In addition to these notices, the City installed 4 public notice signs at shoreline parks to provide additional notification to the public and attempt to enlist comments from others. The City also notified the process through the local paper, city website, and public meeting calendar.

5. What other chances will the public have to comment?

Staff Response: The City is proposing to host an additional public meeting with staff on June 18th to take in comments and provide responses to questions. A second Joint Public Hearing with the Houghton Community Council and Planning Commission will be held on July 25th and a joint study session to deliberate on the proposed amendments will be held on August 8th. The public can provide comments at Public Meeting #2, the Joint Public Hearing on July 25th, or submit in writing at any time to jbrill@kirklandwa.gov. Public comment is accepted until City Council adoption this fall.

6. Why does the permit process to build a dock take so long?

Staff Response: The City permit process for Substantial Development Permits or similar permits is established by state statute, typically 120-150 days from a complete application. There are several other permits that are required from State and Federal agencies for inwater work, such as Washington Department of Fish and Wildlife and the Army Corps of Engineers. Depending on the scope of the project, those state and federal permits can take longer than the City permits. Additionally, the permits are related and generally consecutive, requiring one to be completed before the next can be approved.

7. What is the end goal of the SMP? What is the point of the SMP regulation? What is the rational of regulating the shoreline and limiting use of private property?

Staff Response: The following is the Purpose and Intent section of the SMP. These principles are derived from State law established by the Shoreline Management Act:

It is the intent of the Kirkland Shoreline Master Program (SMP) to manage the use and development of the shorelines of Kirkland, giving preference to water-dependent and water-related uses, and encouraging shoreline development and uses to avoid, minimize and mitigate impacts. In addition, the SMP, consisting of this chapter, the Shoreline Area chapter of the Comprehensive Plan and the Restoration Plan, has the following purposes:

1. Enable current and future generations to enjoy an attractive, healthy and safe waterfront.
2. Protect the quality of water and shoreline natural resources to preserve fish and wildlife and their habitats.
3. Protect the City's investments as well as those of property owners along and near the shoreline.
4. Efficiently achieve the SMP mandates of the state.
5. In interpreting the provisions of this chapter, preference shall be given in the following order to uses that:
 - a. Recognize and protect the statewide interest over local interest;
 - b. Preserve existing natural areas along the shoreline;
 - c. Result in long-term over short-term benefit;

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- d. Protect the resources and ecology of the shoreline;
- e. Increase public access to publicly owned areas of the shorelines;
- f. Increase recreational opportunities for the public in the shoreline; and
- g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

8. This process has not been transparent, how has the scope of the process changed?

Staff Response: Working drafts of the proposed code amendments were posted to the web preceding the public meetings in February - April; Houghton Community Council - February 25th, Planning Commission - February 28th, City Council - March 5th, and Joint Ecology/ Planning Commission / Houghton meeting April 25th. Staff has uploaded the state required documents and additional documents throughout the process. All proposed code amendments are shown in red underlined for new text and red strikethrough for eliminated text, to make them clearly visible while reviewing the documents.

9. There has been no representation from lakeside property owners in the planning process till now

Staff Response: Outreach to all 1,300 shoreline property owners was sent out on February 12, 2019 in a courtesy notice of the Periodic Review Process, and again on March 25, 2019 notifying of the 30-day comment period and April 25th joint hearing between the Houghton Community Council, the Planning Commission, and the Department of Ecology and open house. The City posted 4 public notice signs at 4 waterfront parks, listed the proposal in the newspaper, and posted the project to the City website. The City sought early input from the general public, including shoreline property owners.

10. Code and proposed changes are hard to understand, can you simplify them for lay people?

Staff Response: see [SMP Periodic Update](#) website. A summary of all proposed amendments is provided by following this link:

<https://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/032719+Summary+of+SMP+Amendments.pdf>

In addition, a [simplified summary of amendments oriented to single family private property owners](#) is provided by following this link:

11. Why are these regulations changing?

Staff Response: State law requires jurisdictions to review and update their SMPs every eight years in accordance with the Shoreline Management Act, RCW 90.58.080 (4) and its current guidelines and legislative rules. The majority of the proposed amendments are clarifications and “clean-up” changes which maintain the same underlying regulation with adjusted text, allowing applicants and staff clarity when submitting or reviewing code.

Bulkheads and Erosion

12. Why are bulkheads allowed on public property if they aren't allowed to be maintained on private property?

Bulkheads protect property. Have planning staff considered the impacts of erosion caused by the removal of bulkheads on private property?

Staff Response: Bulkheads are allowed to be retained or replaced on public and private property through various regulations. The SMP does not require the removal of a bulkhead except when more than 50% of the length of the bulkhead is proposed to be replaced when the primary structure on the property is located more than 10 feet away

from the Ordinary High Water Mark **and** a needs assessment from a qualified professional (geotechnical engineer or geomorphological engineer) confirms that the bulkhead is not necessary to protect the primary structure. The City has permitted approximately 132 feet of bulkhead repair since the 2010 SMP adoption. Some of the repair was completed through standard repair methods, such as replacing rip rap boulders or gravel with filter fabric behind the bulkhead wall. Other repairs were completed through the removal and replacement of solid bulkhead with new solid bulkhead. The method or repair depends on the situation and is allowed under current and proposed codes without a needs assessment provided the amount of work is less than 50% of the linear bulkhead length (see KZC 83.300). The majority of bulkhead repair has been completed through the removal of hard stabilization and installation of soft shoreline stabilization, totaling approximately 230 feet. Those projects were all completed through the voluntary provisions of the SMP, and utilized the shoreline setback reduction options of section 83.380 in conjunction with new or remodel projects. Bulkheads that are determined to be necessary to protect property from impacts caused by erosion are permitted to be replaced if no more than 50% replacement is proposed and the location is no further waterward of the Ordinary High Water Mark. Replacements that meet those criteria are exempt from a shoreline permit, and instead require only a shoreline exemption.

13. Has the effect of erosion been considered with the requirement to remove bulkhead?

Staff Response: The impacts of erosion have been considered in the Shoreline Stabilization section of the SMP (KZC 83.300). The City is not proposing any changes in the stabilization section, other than a couple of clarifying updates. The SMP allows for the maintenance of existing bulkheads.

Boathouses

14. What is the scientific reason for removal of boathouses?

Staff Response: Boathouses are overwater structures that are non-conforming to current and previous SMP codes. The removal of overwater coverage increases light transmission in the nearshore littoral zone and removes habitat of predators to juvenile salmon. This is the area with a water depth that allows sunlight to reach the lakebed and is the critical area where juvenile salmonids migrate when in lakes, such as Lake Washington. This is also the area where the majority of structures such as piers, docks, lifts, and boathouses are located. The removal of overwater structures improves nearshore habitat and ecological function. The City of Kirkland prohibited the construction of boathouses prior to the 2010 Comprehensive SMP Update and so did King County. When Kirkland annexed the Finn Hill area in 2011, annexation area voters approved Kirkland's SMP and Kirkland's Zoning. Due to the presence of boathouse structures in the Annexation Area, Kirkland's SMP included a specific statement in 83.550 requiring the removal of non-conforming overwater structures, like boathouses, if certain thresholds were reached. The preclusion of boathouses is not new. The King County SMP prior to annexation also prohibited boathouses (25.16.120.B) adopted by Ordinance 12763 in 1997. The prohibition on overwater structures dates back to 1978, wherein Section 409(4)(b) prohibited covered moorage.

15. Boathouses are needed to keep boats out of the water and protect from the elements. Some properties have steep driveways and configurations, making it difficult to maneuver boats on trailers.

Staff Response: The SMP allows the installation of boatlifts to lift boats up and out of the water. Within the entire shoreline of Kirkland, a total of 21 boathouses currently exist within the area annexed in 2011, and 2 exist in the former Kirkland boundary. The remaining shoreline property utilize boatlifts or remove boats on trailers during the winter months.

Buoys (no changes to regulations have been proposed)

16. Buoy regulations are not consistent around the lake.

Staff Response: Each jurisdiction on Lake Washington has established their own SMP regulations based on shoreline conditions and the policies and goals developed by City Council, the Planning Commission, and stakeholders. No change to current regulations has been proposed - the current code prohibits moorage buoys if a pier exists on the property. The proposed update maintains that prohibition and adds some clarifying language on location and spacing from other structures.

17. Buoys protect property and docks from boats on the lake.

Staff Response: Staff recognizes the usefulness of buoys in protecting pier structures as well as the boat itself during storm events. The current and proposed minor amendment allow for the use of a moorage buoy in lieu of a pier (KZC 83.270.4 table current code, 83.270.3.m proposed amendment).

18. Is there evidence of the positive impacts of buoys on boat safety and the lake?

Staff Response: Moorage buoys are a preferred method for moorage since they produce no overwater shading. Former and current King County Zoning only allow a pier or moorage buoy, not both (same as Kirkland's SMP). The King County Code in effect prior to annexation required alternatives to piers be investigated and that a property forgo installation of a pier if a commercial marina, floating moorage buoy, or joint use moorage pier are available or feasible options.

19. What are the negative effects of buoys?

Staff Response: Independent moorage buoys are a preferred method for mooring a boat in lieu of a pier, provided they can achieve the required setbacks from side property lines for the property.

Jurisdiction

20. Would like customized rules based on annexation history.

Staff Response: A review of the King County codes dating back to 1978 identifies the shoreline regulations have adjusted over time but have certain allowances and prohibitions. The County went so far as to establish in section 25.16.140, that *single-family piers for the sole use of the property owner shall not be considered an outright use on King County shorelines*. The City of Kirkland took into consideration the conditions and environment when establishing all the SMP Environmental Designation areas, both within the pre-Annexation Kirkland boundaries and the Annexation Area. The regulations within the current SMP reflect the goals and policies adopted back in 2010-2011.

21. Why can we not grandfather existing uses in?

Staff Response: Existing structures are allowed to continue subject to the Non-Conformance codes of 83.550. No changes are proposed to 83.550 that alter how non-conformances are treated on single-family properties in the shoreline management area, except they are now expanded to cover not just the annexation area, but the entire City. The City's nonconformance regulations do consider all legal uses and improvements grandfathered in, and only subject to conformance if specified thresholds are triggered.

22. How does Kirkland shoreline regulation differ from previous county regulation?

Staff Response: The pre-annexation King County Shoreline regulations limited the number of moorage buoys and piers to only one, and a property could only contain one, not both types of moorage. Boathouses were prohibited. Existing non-conforming boat houses were required to be brought into conformance when modification to the boathouse exceeded 50% of the value for the structure. Only one boat lift per property were allowed.

23. Is there consistency between shoreline regulations between jurisdiction on the lake?

Staff Response: All jurisdictions on Lake Washington are required to establish SMPs that are consistent with the Shoreline Management Act through review by the Department of Ecology. Each jurisdiction has unique environments and existing infrastructure/improvements along the shoreline. In addition, each city or county has its own priorities and policies for how they want their jurisdiction to develop over time.

24. Has there been an analysis of the consistency of shoreline regulation between jurisdictions on the lake?

Staff Response: The City has not conducted a comprehensive review of how other jurisdictions regulate shoreline development. A summary of [shoreline regulations of other Lake Washington jurisdictions](#), pertaining to a selection of topics related to single family development is provided on the City website.

These are complex regulations that attempt to balance the SMA priorities with use preference based on existing and reasonably foreseeable future development specific to each jurisdiction. All specific provisions must be considered in the context of the other supporting regulations of each jurisdiction's particular code, such as minimum lot size, impervious surface maximums, buffer and setback size, shoreline environment designations, and allowances or lack thereof provided for within the non-conforming provisions.

25. What are the effects of different jurisdiction regulations?

Staff Response: All are working within the required framework of the SMA and must be approved by the Department of Ecology for consistency with the Statewide Shoreline Management Act.

Piers**26. Why are there pier regulations? What are the scientific reasons for regulation number of piers and pier length?**

Staff Response: Overwater structures can impact the natural biological processes that are critical to fish. Structures located over the water can shade out aquatic plants that provide food and habitat for fish, as well as block migration patterns, forcing fish out into deeper water where they are more susceptible to predation. All jurisdictions along shorelines of the state, are required through the Shoreline Management Act, to incorporate dimensional standards that limit overwater structures and seek to improve the long-term environmental benefit of the shoreline. In addition to ecological reasons to regulate piers, the City established regulations based on policies that protect statewide, regional, and local interests in public use of Lake Washington, including navigation issues, and protecting the community character through establishment of consistent regulations for all property owners.

27. Do boats really hit long piers? What is the true public danger of this regulation?

Staff Response: The navigational standards are intended to limit overwater coverage and provide property owners and the general users of the lake, unencumbered navigation around the lake. The SMP considers all boating types. Comments received during applications have raised concerns related to kayak, canoe, kite surfers, and paddleboarder impacts related to pier length. The City is proposing to maintain the existing 150-foot maximum length for single family

piers and the limitation that piers are no longer than the adjacent neighboring piers. The code update is a clarification and adjustment of the language to make it clearer for applicants and City staff. **What is the rationale for changing pier length?**

Staff Response: No change is proposed. The code language is being updated to more clearly identify how the City measures pier length and how applicants can determine the allowable length for each property. The regulations in effect under the current SMP and the former King County SMP, limit the amount of overwater coverage, intended to help improve the nearshore environment. The two sections below are pulled directly from the current code and the proposed changes.

Current code from 83.270.4 table states:

- 150 feet, but piers or docks extending farther waterward than adjacent piers or docks must demonstrate that they will not have an adverse impact on navigation
- 26 feet for ells
- 20 feet for fingers and float decking attached to a pier

Proposed code from 83.270.4 table states:

- No longer than the average of the adjacent neighboring piers, or 150 feet, whichever is less, except when a water depth adequate to prevent boats from sitting on the lakebed cannot be achieved within the average length of neighboring piers, it may extend to a maximum of 150'. If a length exceeding 150 feet is required to meet adequate depth a shoreline variance shall be required. Piers or docks extending farther waterward than adjacent piers or docks must demonstrate that they will not have an adverse impact on navigation. The length of a pier or dock shall be measured from the furthest landward point of the OHWM.
- 26 feet for ells
- 20 feet for fingers and float decking attached to a pier

Shoreline habitat

28. Is the mitigation required by regulation proven to work in application?

Staff Response: Shoreline mitigation planting standards established in KZC 83.400 are not proposed to be changed with the Periodic Update currently underway, except for minor clarifications (see current and proposed amendments). Based on the projects completed since the 2010 Comprehensive Update, the City has recorded just over a half an acre of newly planted shoreline riparian area with native vegetation, the planting of 158 native trees and the voluntary removal of approximately 230 feet of bulkhead. The projects that have removed hard stabilization measures (bulkheads) and replaced with soft shorelines have been successful through the monitoring period of five years. Specifically the Taylor and Bendich properties have been successful examples of bulkhead removals and installation of soft shoreline stabilization and are leaders in the [Green Shores for Homes](#) program, which is a certification program developed by Washington SeaGrant. There have been additional questions about the placement of spawning gravel in the Lake, but this is a State (rather than City) requirements and we have not monitored the success of such measures.

29. Shoreline maintenance and city regulation are a financial hardship on the property owner

Staff Response: The current and proposed codes do not mandate specific maintenance of the shoreline, with the exception of piers. Piers must be maintained to provide a safe and useable surface that does not pose risk of failure. Only with the proposed development or redevelopment of a primary structure or shoreline improvement (pier or bulkhead) does the current and proposed SMP require native plantings be installed with the permit. Regular maintenance of bulkheads or piers are generally reviewed through the administrative processes of the City and State. The current and proposed codes are intended to allow for the regular maintenance of structures within the shoreline setback and overwater. As each property and improvement is unique, City staff are trained to assist in determining the process through which each project falls, based on the scope, conditions, and current regulations.

30. Do these regulations help salmon habitat? What is the scientific proof?

Staff Response: The current SMP was written to incorporate policies and regulations which follow best available science to improve the shoreline environment along the 9.9 miles of Kirkland shoreline on Lake Washington. When the current SMP was developed, the City referred to many [scientific studies](#) to help align our goals and policies to accommodate environmental improvement of the shoreline and lake ecosystem.

31. What is the use of denying the property owner the ability to build a pier/boathouse/bulkhead, as long as they mitigate the effects?

Staff Response: Both the current and proposed adjustments to the SMP allow for single-family properties to replace or install an individual pier on the parcel. The maintenance of an existing bulkhead is also allowed through KZC 83.300. See question #14 above for information and background on the long history of boathouse prohibition in Kirkland and King County.

32. Why is “leafy” shade different than shade from a dock?

Staff Response: The dappled shade from vegetation overhanging the lake is a natural shading which provides cover for juvenile Chinook salmon that use the nearshore environment for predator avoidance, rest etc., plus the overhanging branches drop insects and debris which make up the diet of juvenile salmon and other small aquatic species. The grated decking required by all jurisdictions in Lake Washington (for the first 30 feet of the pier) mimics the 40% light transmittance, similar to native vegetation.

Shading provided by overwater coverage, such as a dock, provides cover for predators of salmon and causes salmon migration paths to be diverted into deeper water where there are more predators present.

General Concerns

33. Milfoil regulations are complicated, how to make regulations less of a financial hardship on homeowners

Staff Response: The proposed inclusion of notification was intended to allow neighboring property owners to know when herbicide chemicals would be broadcast into the lake within close proximity. The Department of Ecology is currently updating their standards for notification and the City is considering eliminating the proposed code, as it will be duplicative. The City acknowledges the importance of following the established DOE standards for completion of necessary permits and following the required notification process. Inclusion of the proposed code will allow for the City to educate and follow up with property owners through the Code Enforcement process.

34. Code and planning process do not consider the needs of those who live on the lake

Staff Response: The Comprehensive SMP Update in 2006-2010 included shoreline property owners and numerous professionals that work within the shoreline jurisdiction. While the City understands the position of shoreline property owners, the broader picture must consider the general public as a whole, whereas Lake Washington is a shoreline of the State and must be protected and maintained in a manner consistent with the Shoreline Management Act overarching goals and policies.

35. Is the scientific reasoning sound for regulations?

Staff Response:

The State requires shoreline regulations to use “the most current, accurate and complete scientific and technical information available”. When the current SMP was developed, extensive background documentation was prepared to ensure these standards were met and to help understand the City’s baseline condition. See the original [inventory and analysis report prepared in 2006](#), and the [cumulative impact analysis](#) prepared in 2009. The City referred to many [scientific studies](#) to help align our goals and policies to accommodate environmental improvement of the shoreline and lake ecosystem. The scope of the periodic update does not include re-visiting the science used in 2010 for the comprehensive update.

City Initiated Amendments Proposed to Chapter 83 and 141 KZC and Shoreline Area chapter of the City's Comprehensive Plan

Section/ Title of Chapter	Type of Amendment	Proposed Change	Rationale
Chapter 83- Shoreline Management Kirkland Zoning Code			
KZC 83.80 Definitions	Clarifications	<ol style="list-style-type: none"> 1. Add, revise or remove definitions to reflect consolidation of regulations related to wetlands, streams and fish and wildlife habitat conservation areas within and outside of shoreline jurisdiction. 2. Add definition of pier bumper which prevent boats from going under a pier to reflect pier bumpers regulations added to Chapter 83.270 KZC. 3. Minor clarifications to some definitions 	<ol style="list-style-type: none"> 1. Clarifies that SMP definitions are limited to those specific to shoreline jurisdiction and may differ from general definitions. Now that SMP will reference Chapter 90 for critical areas regulations no critical areas definitions are needed in SMP. 2. Adopts interpretation No. 12-6, in effect since 2012, allowing pier bumpers. 3. Clarification
KZC 83.160 User Guide	Clarification	Clarify that Conditional Use Permits also must meet criteria for a Substantial Development Permit.	Clarification
KZC 83.170 Permitted and Prohibited Uses Chart	Minor code amendment	Add process for expansion of existing boat launch in shoreline parks and eliminate non-motorized residential boat launches and boat rails as a permitted use in all other shoreline environments.	See 83.270, Rationale 8
KZC 83.180 Shoreline Development Standards	<ol style="list-style-type: none"> 1. Clarification 2. Minor code amendment 	<ol style="list-style-type: none"> 1. Add missing setbacks for Water Dependent uses (i.e. parks, marinas, piers) under Recreational Use category. 2. Add a footnote to Shoreline Setback for Utilities allowing stormwater outfalls to be installed within the setback. 	<ol style="list-style-type: none"> 1. Clarification 2. Per City Public Works department, storm water outfalls have increased requirements under current Ecology standards (adopted by the City per the 2016 King County Stormwater Design Manual) that exceed what is currently described for acceptable utilities within the shoreline setback. In particular, energy dissipation structures and related features (such as reinforced channels) are neither underground structures (they necessarily have to outlet above the lake level in order to achieve discharge) nor are they pipes and similar, as presently described for utilities. These structures often cannot be installed further back than the current utility setbacks, or even as far from the OHWM as possible, as even a relatively gradual slope down-gradient of the energy dissipator's outlet will result in a significant increase in flow velocity before reaching the lake's OHWM (thus negating the benefits and compliance required of the dissipator in the first place, as well as requiring a much larger permanent channel to be constructed between dissipator and lake shoreline). In other words, energy dissipation represents a requirement that can generally only be realized at or very near to the point of discharge.
KZC 83.190 Lot Size or Density, Shoreline Setback, Lot Coverage and Height	<ol style="list-style-type: none"> 1. Minor code amendment 2. Clarification 3. Minor policy change 	<ol style="list-style-type: none"> 1. Clarify that private shoreline walkways in the shoreline setback can be either 8 feet wide or broken into two walkways that are 4 feet wide and that they should be perpendicular from a deck or patio. 2. Clarify what is measured for maximum allowable width of improvements in shoreline setback, such as decks and patios. 3. Clarify that non-permeable turf is prohibited in shoreline setback (permeable is allowed). 	<ol style="list-style-type: none"> 1. Gives homeowner flexibility while also preventing a walkway being built parallel to the patio as a way of increasing patio size into the required shoreline setback. 2. The standards in Chapter 115.115 for required yards are referenced in this section. 3. Clarifies that permeable artificial turf is allowed as an alternative to lawn because it could reduce a source of pollutants while still allowing infiltration of runoff.
KZC 83.200 Residential Uses	Clarification	Clarify that certain accessory structures to residential uses (i.e. decks and patios) and structures supporting a water dependent use, such as a private walkway to	Clarification- This change clarifies those accessory structures to a residential use that are allowed in the shoreline setback yard.

City Initiated Amendments Proposed to Chapter 83 and 141 KZC and Shoreline Area chapter of the City's Comprehensive Plan

Section/ Title of Chapter	Type of Amendment	Proposed Change	Rationale
		access a pier or dock, may locate between the primary structure and the lake as stated in KZC 83.190.	
KZC 83.210 Commercial Uses	Minor code amendment	Add mobile fueling businesses to those retail establishments providing gas and oil sales for boats	Recognizes various delivery methods. Underground and above ground fuel tanks as well as fuel truck delivery are used to provide fuel at commercial fuel docks.
KZC 83.240 Utilities	Minor code amendment	Clarify that geothermal heat pumps are not permitted waterward of the OHWM (ordinary high water mark).	Proposals for geothermal heat pumps in the lake have previously been rejected because the code currently prohibits locations that adversely impact ecological functions. Geothermal heat pumps disturb salmon spawning and the lakebed. They can also heat up the lake water. Viable upland alternatives exist to install geothermal systems. WDFW and the Muckleshoot Tribe do not support geothermal heat pumps in the lake and DOE has concerns about them.
KZC 83.250 Land Division	Minor code amendment	State that a subdivision may not increase a non-conforming shoreline setback for an existing structure.	Reflects existing regulations that prohibit creation or expansion of nonconformances with subdivisions.
KZC 83.260 General Shoreline Modification Regulations	Clarification	Clarify that no net loss standard and mitigation sequencing are required for Conditional use and Variance Permits or when specific regulations for a proposal are not specified such as marinas and multifamily piers.	Clarification – clarifies that proposals are subject to analysis where dimensional and materials standards are not well-defined.
KZC 83.270 Piers for detached dwelling units	<ol style="list-style-type: none"> 1. Policy change 2. Code amendment 3. Policy change 4.3. Minor code amendments 4-5. Clarification of interpretation 6. Minor code amendment 7. Policy change 8-13. code amendments 14. Clarification 15. Code amendment 16. Clarification 	<ol style="list-style-type: none"> 1. Delete Administrative Approval Alternative Design (83.270.4.b) for maximum area, width, and depth of pier (minor City policy implication). This provision allows an applicant to go to Army Corps of Engineers and WDFW for approval of piers that exceed City standards for maximum area, width and depth, and dimensional standards and thus circumvent the City's standards. 2. Reformat the dimension standard chart for clarity and revise length and depth requirements. Limit length of pier to same length as adjacent-nearby piers or shorter but in no case longer than 150 feet (existing allowed length) and remove depth standard for ells and float decking. Allow the length of the pier to increase up to 10% of adjacent-nearby piers-pier length following the methodology under current code application. Staff has produced explanation plates that illustrate how staff has determined the average nearby pier length and how to calculate the 10% additional length. 3. Require removal of non-conforming structure, such as boathouses, as mitigation for additions to piers (83.270.7) for entire shoreline and not just in annexation area. 4.3 Allow pier bumpers per Interpretation No 12-6. 5.4 Allow height of boat canopies to be up to 12 feet in height and not limit to 7 feet in height per Interpretation No. 12-8. 6.5 Require pier ladder. 7.6 Clarify that boats cannot be moored 30 feet or closer to the OHWM (nearshore is fish spawning area). 8.7 Update 83.270.3.f.4 and the allowed uses chart (83.170) to indicate that residential boat launches and boat rails for non-motorized boats are not 	<ol style="list-style-type: none"> 1. This change would eliminate the Administrative Approval Alternative Design option. Staff has found that these agencies have no set standards and thus rely on a biological report. Staff questions their rigorous analysis and justification for deviating from the City standards. In one case, they were going to approve a pier in extremely shallow water in Juanita Bay until the Muckleshoot Tribe challenged the proposal. State and federal agencies have different mandated considerations compared to the City. In particular, the SMP has a unique emphasis on views, public access, and protection of water-dependent uses. These considerations further support removing reference to state and federal agencies. 2. This code amendment would update language to more clearly identify how the City measures pier length and how applicants can determine the allowable length for each property. Allowed pier length is determined by the average of neighboring-nearby pier lengths and by navigation considerations consistent with the Shoreline Area policies in the Comprehensive Plan and the purpose and intent section of the SMP. The amendment to allow a proposal to extend up to 10% further than the average of the adjacent-nearby piers is intended to establish some reasonable flexibility. Instead of utilizing a sharp line, the 10% additional length allows the line to become more of a band that is reasonable given the need for additional depth is justified by the current bathometric conditions. The depth requirement for ells and floats is removed but the maximum length of 150-feet is not changed. Most boats in Kirkland do not need anywhere near the 9-10 feet depth for ells and floats required currently in the code. Some pier owners have proposed piers much longer than needed to obtain the required water depth when a shorter pier would have been adequate for both the needed water depth and boat size. The longer pier would have resulted in unnecessary impacts to

City Initiated Amendments Proposed to Chapter 83 and 141 KZC and Shoreline Area chapter of the City's Comprehensive Plan

Section/ Title of Chapter	Type of Amendment	Proposed Change	Rationale
		<p>permitted. (Residential boat launches for motorized boats are already prohibited.)</p> <p>9-8. Delete option to use alternative plantings approved by the state and federal agencies to meet mitigation planting requirements pursuant to 83.270.5.e.1 and instead allow the City's alternative compliance provisions, which will be retained.</p> <p>10-9. Delete option of using the monitoring report from state and federal agencies to replace City's requirement for monitoring report.</p> <p>11-10. Require vegetation in shoreline plantings to hang over existing bulkheads for fish habitat.</p> <p>12-11. Remove the term "recreational use" from section 83.270.5.a and clarify that any structures needs to be removed regardless of location or function.</p> <p>13-12. Require in 83.270.8 that when piers are repaired through replacement of decking and decking substructure and/or less than 50% of the piles, the new decking shall comply with the pier dimensional standards of 83.270.4 to the maximum extent feasible.</p> <p>14-13. Remove reference to the older term "high waterline", which is being replaced with OHWM throughout the SMP.</p> <p>15-14. In 83.270.9, change the allowed number of boat lifts from 1 to 2 per detached dwelling unit.</p> <p>16-15. Correct code section cross-references in 83.270.8.a and b and clarify that repairs in a five year time period that don't cumulatively exceed 50% replacement of total pilings will continue to be reviewed under the repair section.</p>	<p>navigation and environment on shorelines of the State. Long piers result in additional overwater coverage that can adversely affect juvenile salmon.</p> <p>The primary reason for previously having a water depth standard was to limit overwater cover in shallow areas used by juvenile Chinook salmon. However, the proposed code adequately protects these areas by prohibiting moorage and pier structures contributing to the greatest amount of overwater coverage (fingers, ells and platforms) from within the nearshore 30 feet. The proposal also requires ells, fingers and platforms to be located near the terminal end of the pier as a means to further push these structures away from shallower areas. Additionally, boat moorage must also be designed to ensure adequate depth to prevent the boat from sitting on the lakebed. The change allows more flexibility for the applicant to determine and document the moorage depth needed for their particular vessel. Generally, the desired depth which is adequate to prevent damage to the boat is also adequate to prevent damage to the lakebed. A new pier or addition to an existing pier must maintain consistency with the surrounding piers. Averaging the pier length with those surrounding piers will produce consistent design and configuration, maintaining the character of the shoreline.</p> <p>3. This change would expand existing requirement for boathouses in the annexation area to other parts of City shoreline (boathouses were prohibited by King County in the annexation area and by the City in the pre-annexation area). With the 2011 annexation, the 2010 shoreline regulations needed to be amended to reflect the annexation area, which were a carryover from King County. Several non-conformances were identified in the annexation area, such as boat houses, that should be removed with redevelopment of a site. The 2011 amendments were limited to the annexation area. These amendments should now be expanded to include the entire shoreline area.</p> <p>43. Codification of Interpretation No 12-6, in effect since 2012.</p> <p>54. Codification of Interpretation No 12-8, in effect since 2012. State Department of Fish and Wildlife supports taller boat canopies because they allow light in the near shore area that deters predatory fish and thus protects salmon.</p> <p>65-76. Clarifications</p> <p>87. The intent is to prohibit structural boat launches (ramps and rails) except in waterfront parks. Structural boat ramps for both motorized and non-motorized boats remain allowed in the urban mixed environment where waterfront parks are located. The change prohibits non-motorized boat launches in all other environments, where boat launches for motorized boats are already prohibited. Reasoning is that boat launch structures (boat rails and ramps etc.) adversely impact the beach substrate below OHWM which is detrimental to salmon habitat. Homeowners could still launch their non-motorized boat by hand on their private beach, off of their dock, bulkhead or shoreline. They might also be encouraged and have another reason to create soft shoreline stabilization on a portion of their property, where the gradient would allow them to more easily</p>

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Section/ Title of Chapter	Type of Amendment	Proposed Change	Rationale
			<p>launch their boat into the water. They can also take their boat to the public boat launches or soft shoreline present at waterfront parks.</p> <p>98. The City still allows alternative compliance for departures from the required vegetation in shoreline setbacks pursuant to 83.400.3.f. Alternative plantings that meet state and federal standards instead of the standards in Chapter 83 KZC should not be allowed because as it turns out the agencies do not require shrubs important to an adequate shoreline planting strip and the same standards for trees. Staff recommends removing the option and using only the City's standards. Recent changes to the federal permitting approach (known as the Integrated Restoration and Permitting Program (IRPP)) have numerical standards for shoreline vegetation, which may not be consistent with a functional vegetated shoreline.</p> <p>409. This code amendment eliminates the option of accepting State and federal agency monitoring reports in lieu of the City's required monitoring report because the agencies have a reduced standard for vegetation and the time period for their reports are not five years from the date of installation but from the date that the project is approved. A single monitoring report is typically submitted to all agencies. The proposed change would not be expected to change the contents of a monitoring report significantly or generate significant additional work for the applicant.</p> <p>4410. Vegetation that hangs over existing bulkheads is good for fish habitat and recommended by the Muckleshoot Tribe.</p> <p>4211. For single family pier or dock proposals this code amendment requires as mitigation, removal of any existing in-water or overwater structure regardless of location, unless they are part of the new proposal in order to limit a net increase in overwater coverage.</p> <p>4312. This code amendment requires that substantial repairs to existing docks bring the width and height into conformance when feasible. The width can and should be reduced in some cases where they have unnecessary cantilevers or design features that project well beyond the 4 foot max width.</p> <p>4413. Clarification. High Waterline and OHWM have the same definition in KZC. All references in the SMP to the older term high waterline should be replaced with OHWM for consistency and simplicity.</p> <p>4514. In response to stakeholder requests, the City has decided to propose allowance of an additional boat lift. Other jurisdictions on the lake allow multiple lifts and ecologically, it would not be detrimental to do so. Boat lifts allow boats to be stored out of the lake, which is better for water quality and fish habitat and can reduce shading impacts.</p> <p>4615. Clarification</p>

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Section/ Title of Chapter	Type of Amendment	Proposed Change	Rationale
KZC 83.280 Piers for Attached and Stacked Dwelling Units	Same as detached dwelling unit amendments	Same as detached dwelling unit amendments above	See same comment for piers for detached dwelling relating to alternative design and mitigation.
KZC 83.290_Marinas and Commercial Moorage Facilities	<ol style="list-style-type: none"> 1. Reference another section 2. Minor policy change 3. Minor code amendment 4. Clarification of interpretation 5-7. Clarifications 	<ol style="list-style-type: none"> 1. Reference public piers standards in KZC 83.220.5. 2. Delete alternative design option if approved by the state and federal agencies similar to piers for detached dwelling units. 3. Require mitigation (removal of non-conforming in-water structures) for repair of marina piers similar to piers for detached and attached dwelling units. 4. Incorporate Interpretation No 12-6 about pier bumpers. 5. Reference public parks in the headers to the setback and dimensional standards charts in 80.290.2 ,80.290.5.c, 6.b and c. 6. Revise number of waste receptacles required to one (1) to be consistent with the standard in 83.220.5. 7. Remove reference to the older term "high water line", which is being replaced with OHWM throughout the SMP. 	<ol style="list-style-type: none"> 1. Clarification 2. See same comment for piers for detached dwelling relating to alternative design and mitigation. 3-6. Clarifications 7. Clarification. High water line and OHWM have the same definition in KZC. All references in the SMP to the older term high water line (or "waterline") should be replaced with OHWM for consistency and simplicity.
KZC 83.300_Shoreline Stabilization	<ol style="list-style-type: none"> 1. Clarification 2. Minor code amendment 3. Clarification 	<ol style="list-style-type: none"> 1. Clarify that for replacement or major repair of a bulkhead, when there is more than one section, the entire length of all sections is included in the measurement, which determines when the proposal is considered major replacement or repair. 2. Require for replacement or major repair of a bulkhead that construction plans be prepared by qualified professional, with knowledge in hydrology and construction of hard and soft shoreline stabilization methods. 3. Require for replacement or major repair of a bulkhead that if consultant is required, that they attend pre-submittal meeting for building permit. 4. Clarify in 83.300.1.d and 83.300.5.a.3 that boulders used in soft shoreline stabilization are for habitat purposes. 5. Remove in 83.300.10.e.2.e the allowance for an alternative planting plan approved by other state or federal agencies. 	<ol style="list-style-type: none"> 1. Clarification- this change clarifies how to measure the length of the proposal to perform a major repair or major replacement of a bulkhead. 2. This amendment is necessary to ensure competency in design of proposal. 3. Necessary to ensure that the contractor and consultant coordinate prior to submittal of building permit. 4. Clarification at suggestion of public works department 5. Necessary for consistency with removal of the state and federal approval option (see rationale under 83.210). Only the City's alternative compliance standards that provide flexibility within the planting strip as allowed in 83.400.3.f should be cited.
KZC 83.360 No Net Loss	Clarification	Clarifies that the required mitigation analysis (if needed for an exception to Code standards) to determine if no net loss standard is met must be prepared by qualified professional.	Necessary to ensure competent analysis, for example if a shoreline variance is sought.
KZC 83.370.2 and 83.370.3 Federal and State Approval	Clarification	Specify that the documentation verifying necessary state and federal agency approvals must be submitted to the City prior to issuance of a building permit or land surface modification permit,	Clarification

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Section/ Title of Chapter	Type of Amendment	Proposed Change	Rationale
KZC 83.380 Shoreline Setback Reduction Option	1. Reference another section 2. Minor policy change 3. Clarification 4. Minor code amendment 5. clarification	1. Add cross reference KZC 141.70.4 which addresses relief from shoreline setback and lot coverage requirements when OHWM is moved upland due to removal of bulkhead and creation of soft shoreline setback. 2. Add setback reduction option for removal of 50% of bulkhead (current regulation only gives option for removal of 75% of bulkhead). 3. Clarify what vegetation must be installed to meet Option 7 where additional landscape strip width is provided. 4. Remove incentive 6 in the setback reductions option chart (83.380.2.f) related to installation of biofiltration mechanisms. 5. Reformat wording in 83.380.2.b for clarity.	1. Ensures consistency with Comprehensive Plan and existing Code to not penalize owner for moving OHWM further landward. 2. Provides and additional incentive for soft shoreline stabilization. Adding the option to remove 50% of bulkhead instead of 75% of bulkhead would encourage removal of at least part of the bulkhead in exchange for a shoreline setback reduction. The percent of the setback reduction would be proportionately less for the 50% bulkhead removal option than the 75% removal- 10% rather than 15% setback reduction. 3. Clarification- provides clearer guidance. 4. The current storm water manual requires this type of improvement where feasible anyway, so it is no longer considered an incentive. It is not appropriate to give an applicant credit toward reducing the required setback for something that is now required anyway. 5. Clarification
KZC 83.400 Tree Management and Vegetation in Shoreline Setback	minor code amendment	Require vegetation overhanging bulkheads	This code amendment is intended to enhance fish habitat in the lake. Overhanging vegetation provides organic input critical for aquatic life. It provides food in the form of various insects and other detritus that feeds benthic macroinvertebrates and provides beneficial cover for juvenile Chinook that use the nearshore environment.
KZC 83.410 View Corridors	Minor code amendment	Clarify that in the Urban Mixed shoreline environment within the Juanita Business District, view corridors are not required in the JBD 4 and 5 zones only.	Reflects existing Zoning Code provisions that do require view corridors in the JBD2 and 3 zones when height is increased up to 13' above the 26' height limit, but not in JBD 4 and 5, where the height limit is 26 feet above ABE, and there is no flexibility to increase the height.
KZC 83.420 Public Access	1. Minor reorganization of the chapter 2. Minor code amendment 3. Clarification	1. Move exception to public access requirement to beginning of section instead of at end of section. 2. Clarify wording for when the public access trail must be opened to the public. 3. Clarify that all new uses, including piers, must provide public access, except single family. 4. Add a statement on Muckleshoot treaty rights and access to fisheries resources in U & A areas.	1. Improve clarity 2. Clarification. 3. Clarification 4. This statement has been added in response to a comment received by the Muckleshoot Tribe requesting acknowledgment of federally protected treaty rights to fisheries resources and access to these resources.
KZC 83.480 Water Quality, Stormwater and Nonpoint Pollution	1. -2. Clarifications	1. Replace reference to Surface Water Master Plan with City's adopted surface water design manual. 2. Replace reference to 2005 Stormwater Manual with City's adopted surface water design manual	1. Correction- BMPs are in the design manual, not the Master Plan. 2. Reference to the 2005 manual is outdated.
KZC 83.490-540 Shoreline Critical Areas	Code amendment	As discussed in Section 3 of the Gap Analysis, The Watershed Company recommends adoption of Chapter 90 by reference, identifying exceptions as required by the SMA.	his option provides the greatest consistency between the SMP and CAO. In the future a single update of Chapter 90 maintains consistency between SMP and CAO. Will help with ease of administration- particularly for projects that cross SMP/GMA

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Section/ Title of Chapter	Type of Amendment	Proposed Change	Rationale
			<p>boundaries, only one set of code requirements would apply. Certain Chapter 90 sections including exemptions, City review process, and appeals will be excluded from the SMP as SMP provisions will apply instead. Critical area reviews for activities in shoreline jurisdiction occur within the context of the SMP permitting procedures. Additionally, some wetland and stream regulations from Chapter 90 will be excluded within shoreline jurisdiction as they are not in compliance with SMA requirements.</p> <p>Note that Chapter 90 does not contain geologically hazardous areas regulations (which are instead contained in Chapter 85) and the geohazard regulations currently in Chapter 83 provide additional, shoreline specific detail not in Chapter 85, therefore these will be retained.</p> <p>Similarly, the flood hazard reduction regulations of 83.530 will be retained, in addition to adopting the frequently flooded area regulations of Chapter 90 as they are needed to address shoreline specific issues, not addressed in Chapter 90.</p>
KZC 83.550 Nonconformances	<p>1. Clarification 2. Clarification 3.4. Code amendment Clarification</p>	<p>1. Clarify that adding or repairing sunroofs does not trigger bringing a nonconforming structure into conformance</p> <p>2. Reorganize 83.550.5 to clarify which nonconformances are landward and which are waterward of the ordinary high water mark. Clarify that stairs and boat launches are an assessor structure waterward of the OHWM, which also must be removed if an alteration to primary structure is made exceeding 50% of replacement cost or a new primary structure is built.</p> <p>3. Extend current nonconforming regulations in Section 83.550.5 for alterations that exceed 50% of the replacement cost of the house, currently in effect only in the annexation area, that require removal of boat houses and additional docks, into the remainder of the City shorelines. In addition, require removal of the more non-conforming pier or dock if there are more than one on the property in the RSA and RMA zone.</p> <p>4. Bring section Clarify in 83.550.6 into consistency with proposed regulations for additions to single family piers City wide, by requiring the existing annexation area regulations to apply City wide (removal of non-conforming boat houses and additional docks), and to require removal of that the more non-conforming pier or dock must be removed if there are more than one on the property when additions to a pier or dock are proposed in the RSA or RMA zone.</p>	<p>1. Clarification</p> <p>2. Clarification. These structures are located both in the shoreline setback and extend waterward of the OHWM. The removal of stairs and boat ramps improvements waterward of the ordinary high watermark minimize impacts on native fish and wildlife and their habitat. <u>In response to public comment, the proposal includes an exception that existing boat launches for non-motorized boats may be continued, and moorage buoys may be continued if established prior to 1978 (when King County adopted code to prohibit both a pier and moorage buoy on same property) and applicable county, federal and state agency permits were approved.</u></p> <p>3 and 4. The regulations in effect in the annexation area should be extended to all City shorelines, to be consistent with Shoreline Area Policy SA-11.3 to design and construct new or expanded piers and their accessory components, such as boat lifts and canopies, to minimize impacts on native fish and wildlife and their habitat. Specifically, this policy calls for minimizing overwater coverage from piers and for reducing or eliminating the number of boathouses and solid moorage covers, (e.g. the use of clear, translucent materials proven to allow light transmission for new canopies).</p> <p>Minimizing overwater coverage reduces predation threats on juvenile salmon. Salmon avoid areas with shadows, which forces them into deeper water where predators are found. Removal of overwater coverage encourages juvenile salmon to stay closer to the shore where predatory fish are less likely to be found.</p>

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Section/ Title of Chapter	Type of Amendment	Proposed Change	Rationale
Chapter 141- Shoreline Administration Procedure Kirkland Zoning Code			
KZC 141.70.30.1	Clarification	State the difference between Substantial Development Permit, Conditional Use Permit and Variance and refer to applicable WAC for decisional criteria.	Clarification
KZC 141.70.30.2 Review Required	Clarification	Add that project exempt from a Substantial Development Permit may need to obtain other development permits.	Clarification
KZC 141. 40.1 Exemption from Permit Requirements	Clarification	Add that the applicant has the burden of proof to show that proposal meets the applicable standards in Chapter 83 KZC for projects exempt from a Substantial Development Permit.	Clarification
KZC 141. 60.1 Applications	Clarification	Add that applicant can be the property owner or primary proponent of the project per WAC-173-27-180(1).	Clarification
KZC 141.70.2.d and 3.d Conditional Use and Variances	Minor code amendment	Add under Burden of Proof section that criteria for a substantial development permit in WAC 173-27-150 must also be met.	Clarification
KZC 141.70.2.e and 3.e. Conditional Use and Variances	Clarification	Clarify that Conditional Use or Variance has to complete all local administrative appeals or reconsideration periods prior to being forwarded to Ecology for its approval/disapproval jurisdiction.	Clarification
KZC 141.70.3. e.3 Conditional Use and Variances	Clarification	Clarify that filing date for shoreline variance appeals are counted from the date that Ecology transmits its decision, not the date the City mails the permit decision to Ecology.	Clarification
KZC 141.70.4 Request of Relief from Standards	Clarification	Clarify that relief from shoreline standards (shoreline setback and lot coverage) may also apply to upland lots.	Clarification
Shoreline Area Chapter Comprehensive Plan			
Shoreline Area Chapter of the Comprehensive Plan	-Minor edits throughout chapter	Reflect 2011 annexation area throughout chapter, including references to O.O. Denny Park, Juanita Drive and multifamily area located west of Juanita Beach Park.	Update reflecting annexation area parks
Policy SA-2.4 Residential – Medium/High development	Clarification	Clarify that additional density beyond 15 units per acre is allowed using the provisions of the Zoning Code, including a Planned Unit Development, affordable housing, low impact development and cottage housing.	Reflects existing Zoning Code provisions.

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Section/ Title of Chapter	Type of Amendment	Proposed Change	Rationale
New Policy SA-6.3	New policy	Add new aspirational policy to promote opportunities to remove overwater residential structures over time.	Policy supports existing goal SA-6 to protect and enhance the character, quality and function of existing residential neighborhoods within the City's shoreline area.
Policy SA-6.4 Subdivision of Land	Clarification	Clarify that public access is not required for 4 or fewer new single family lots.	Clarification. WAC 173-26-241 requires public access for the subdivision of land for more than four parcels.
Policy SA-7.5 Commercial uses between CBD and Planned Area 15 (Carillion Point.)	1. Clarification 2. Minor edit	1. Add the word "west side of Lake Washington Blvd/Lake Street S" to the first sentence so that it is clear that it does not apply to east side of street. 2. Revise the "interfere with nearby uses" statement at the end of the paragraph.	1. Clarification 2. Clarification- change "interfere with nearby uses" to "interfere with nearby water dependent and water-related uses"
New Policy SA-11.2 Piers	New policy	Add new policy that length of pier should be in character with adjacent-nearby pier lengths.	1. Policy supports changes to KZC 83.270 and KZC 83.280 addressing single and multifamily piers that should have pier lengths consistent with nearby pier lengths or shorter. See above. 2. Renumber policies that follow this new policy
Policy SA-13.5 Fish and Wildlife Habitat Conservation Areas	Minor edit	Add reference to Denny Creek and Champagne Creek and Kirkland's <i>Best Available Science Report</i> dated December 2015 to reflect wildlife and fish habitat in the shoreline area.	Update to reflect annexation area
Policy SA-20.3 Landscape design practices in shoreline parks	Minor edit	Add O.O. Denny Park to list of parks that need shoreline vegetation.	Update to reflect annexation area
Policy SA-20.7 Shoreline armoring in shoreline parks	Minor edit	Add O.O. Denny Park to list of parks where bulkhead removal and replacement with non-structural (soft) shoreline stabilization opportunities exist and should be explored if repair or replacement is needed.	Update to reflect annexation area
Policy SA-24.2 Floatplane moorage in commercial shoreline areas	Minor edit	Two minor edits to floatplane moorage policy as an outcome of a recently reviewed floatplane permit.	The policy should support having floatplane moorage in certain commercial locations (Carillion Point and Marina Park) by not have policy text that is ambiguous, such as "protection of adjacent development and uses" and "not interfere with boating corridors." Retaining the more specific text about "human safety, including limiting noise and other impacts" addresses the key issues for a floatplane moorage facility. A float plane must cross a boating corridor to reach its mooring pier.
Shoreline Area Chapter of the Comprehensive Plan	Minor edit	Add text in the introduction that refers to the 2019 periodic review. A new sentence is added to page 3.	The Shoreline Element does not reflect the 2019 SMP periodic review process.
Shoreline Area Chapter of the Comprehensive Plan	Minor edit	Make minor changes to reflect SMP reference to KZC 90. Sentence added to B.2.	Comprehensive Plan policies should reflect SMP updates
Comprehensive Plan Policy SA-13	Minor edit	Update language to reflect current designation status of species. See updated language in Policy SA-13.	Comprehensive Plan references outdated species status (i.e. bald eagle)

Table 6. City Initiated Amendments Proposed to Chapter 5 and Chapter 90 KZC

Attachment 6

Section Title of Chapter	Type of Amendment	Proposed Change	Rationale
Chapter 5 Kirkland Zoning Code			
KZC 5, Definitions	1. Clarification 2-6. Consistency updates	<ol style="list-style-type: none"> 1. Revise culvert definition to clarify that culverts may convey streams and are specifically related to road crossings. 2. Revise frequently flooded areas, geologically hazardous areas, institutional uses, impervious surface, ordinary high water mark, pervious surface, stream, upland, watershed, wetland and wetland category or wetland rating to remove reference to another definition in Chapter 83 KZC. 3. Revise maximum units per acre and structure setback definitions to include reference to Chapter 83. 4. Add definition of Wetlands of High Conservation Value . 5. Revise definition of wildlife habitats and species of local importance (.992) to remove the word "wildlife" and specific species list and remove the redundant species of local importance definition (.883.15). 6. Revise definition of Qualified Critical Area Professional (5.10.748) to include qualified shorelines professional. 	<ol style="list-style-type: none"> 1. Clarification 2. The SMP references Chapter 5 definitions for all definitions that are the same for properties within and outside of shoreline jurisdiction. Only SMP specific definitions should be contained in Chapter 83 KZC. Now that the SMP will reference Chapter 90 for critical areas regulations, no critical areas definitions are necessary in the SMP. There never was a definition for institutional uses in SMP. 3. Clarification 4. Internal consistency. Wetlands mapped by DNR as Wetlands of High Conservation Value should be considered Category I wetlands but currently no definition was provided in code to help determine this. 5. Clarification of regulated species and habitats- Per 90.95.2.b KZC, wildlife habitat and species of local importance are those habitats and species which are on the states Priority Habitats and Species (PHS) list that are located within the city. Bald eagles are no longer on the PHS list. Including specific species in the definition makes the code less adaptable if the state list changes again. Per 90.85.8 habitats and species of local importance, in addition to PHS species, can also be designated by the City. Definition will clarify these two components of habitats and species of local importance. In the future should the city chose to designate additional species they would be listed here. Definition .883.15 is redundant with the proposed revisions to .992. 6. The current definition does not include any specific criteria for professionals qualified to evaluate shoreline specific projects, nor is a shoreline professional defined anywhere else in the code.
Chapter 90 Kirkland Zoning Code			
KZC 90.30, City Review Process	<ol style="list-style-type: none"> 1. Minor policy amendment 2. Clarification 	<ol style="list-style-type: none"> 1. Stream channel stabilization should be a planning official decision rather than Process I 2. Change title of the "type of action" row from Interrupted Buffer to Limited Buffer Waiver. 	<ol style="list-style-type: none"> 1. Bumping down the significance of the decision to make it more consistent with the other types of action 2. The title of the cited section (90.120) is Limited Buffer Waiver, not Interrupted Buffer. Additionally, with the proposed addition to this section (see entry for 90.120 below), it will encompass more than just interrupted buffers.
KZC 90.35 Exemptions	<ol style="list-style-type: none"> 1. Minor policy amendment 2. Minor policy amendment 	<ol style="list-style-type: none"> 1. Add a new exemption for beaver management with an approved HPA. 2. Add a new exemption for private flood prevention activities recommended by Public Works 	<ol style="list-style-type: none"> 1. Based on past project reviews, beaver management, such as installation of beaver deceiver devices, is sometimes warranted, and when approved by an HPA, should be allowed by Chapter 90 with no further review. Insignificant environment impact would be expected when HPA conditions are followed. 2. Based on past project reviews, Public Works at times requires or recommends an action that is difficult or not possible to permit though Chapter 90. Revisions remove this barrier for projects necessary for flood preventions and public safety.
KZC 90.40, Permitted Activities, Improvements, or Uses Subject to Development Standards	<ol style="list-style-type: none"> 1. Clarification 2. Clarify interpretation 3. Clarification 4. minor policy amendment 	<ol style="list-style-type: none"> 1. Clarifications that mitigation area shall be equal to disturbance area in 90.40.6.b and 90.40.6.c 2. Clarify in 90.40.6.c.3 that boardwalks are not counted toward lot coverage 3. Clarify that 90.40.6.d.3 applies to piped stormwater outfalls 4. Add allowance for temporary construction impacts in wetland and stream buffers 	<ol style="list-style-type: none"> 1, 2, and 3. Clarifications 4. Temporary buffer impacts may be necessary for construction related purposes even when all permanent wetland and buffer impacts can be avoided. As the least impactful alternative these temporary impacts should be allowed when they can be fully restored, as a disincentive to proposing additional, permanent impact.
KZC 90.45, Public Agency and Public Utility Exceptions	Clarification	Clarify that all public agency exceptions for all critical areas must include all submittal materials listed in this subsection.	Clarification

Table 6. City Initiated Amendments Proposed to Chapter 5 and Chapter 90 KZC

Attachment 6

Section Title of Chapter	Type of Amendment	Proposed Change	Rationale
KZC 90.55, Wetlands and Associated Buffer Standards	1. Policy amendment 2. Policy amendment	1. Revise habitat point ranges and wetland buffer widths for some wetlands pursuant to Ecology's July 2018 guidance update. 2. For a wetland with a habitat score of 6 or more, add an additional requirement that to utilize the standard buffers a wildlife corridor must be established between the wetland and any other WDFW defined priority habitat on the subject parcel.	1. Clarification. The change in guidance is the result of Ecology's continued evaluation of the 2014 wetland rating system as it relates to the 2004 wetland rating system. Ecology's intent was that the change from the 2004 to 2014 rating system would not significantly affect resulting buffers. The recommendation assigns wetlands with a habitat score of 5 as "low" function instead of a separate "low/moderate" grouping. This reduces the buffer for wetlands with a habitat score of 5 to 75 feet instead of 105 feet. It also reduces the recommended buffer for "moderate" habitat functions (scores of 6 and 7) to 110 feet instead of 165 feet. 2. Chapter 90 KZC utilizes the buffers presented in Ecology's Wetland Guidance for CAO Updates Table XX.1 which requires the use of minimization measures, and when appropriate, protection of a wildlife corridor. The wetland impact minimization measures are included in 90.155 KZC and the requirement that they be implemented if standard buffers are used is noted in the wetland buffer table in 90.55 KZC. However, a corridor protection requirement is not currently included in Chapter 90. To better align with BAS, a corridor protection requirement is proposed in order for wetlands with a habitat score of 6 or more to use the standard buffers. The corridor is only required if an existing, relatively undisturbed corridor at least 100 feet wide exists between the subject wetland and another WDFW priority habitat, <i>and</i> the off-site portion of the corridor is already protected by a legal mechanism. If so, the applicant must extend the corridor protection onto the subject parcel to connect it to the wetland. If such a corridor exists but the protection is not provided, the standard buffers must be increased by 33% to provide additional habitat protection to the wetland. If no corridor is present, the standard buffers may continue to be used with the other applicable criteria contained in 90.55 alone. Note that with the smaller buffer widths now proposed (110 feet) for wetlands with a habitat score of 6-7 (based on item 2 above), the 33% increase in buffer width (to 150 feet) potentially required if the habitat corridor requirement is not met would still result in a smaller buffer than currently required (165 feet) for these wetlands.
KZC 90.60, Wetland Modification	Clarifications	1. Reorder section for clarity, identifying applicability up-front 2. Clarify what type of wetland and wetland buffer modification proposals are allowed	It was not clear to staff or consultants how 90.60 was intended to be applied. Clarifications were made to more clearly indicate that wetland fill should be prohibited except under the certain exceptions (now listed as 1, including reasonable use exception) or for the certain small, low functioning wetlands listed in 3. Buffer modifications are allowed only as part of a wetland modification, interrupted buffer waiver or buffer averaging.
<u>KZC 90.65.1, Table: Streams and Associated Buffer Standards</u>	<u>Clarification</u>	<u>Revise table language to be consistent with the title of the limited buffer waiver section (90.120).</u>	<u>Current language refers to 90.120 as only applying to interrupted buffers. The title is actually "limited buffer waivers" and while only interrupted buffers were covered in that section before, now with the addition of the Type F Limited Buffer Waiver the stream table should be revised to reflect the accurate section title to indicate that all waiver types covered in that section are applicable.</u>
KZC 90.70, Stream Modification	Clarifications	1. Reorder section for clarity, identifying applicability up-front 2. Clarify that stream buffer modifications may only be approved as part of a stream modification, except for averaging and interrupted buffer waiver 3. Clarify that stream channel relocation includes meandering of a stream 4. Clarify that applicant shall be responsible for the cost of inspection, report <u>and</u> peer review 5. Correct language in 3.e to be "limited buffer waivers", consistent with title of 90.120 6. Revise 90.70.4 and 5 to clarify that the decisional criteria for all the listed proposals in 90.70.3 should be decided upon using the applicable decisional criteria for each buffer modification by the Planning Official. 7. Correct the applicable reference to the Daylighting Streams section to 90.75, not 90.80.	Clarifications

Table 6. City Initiated Amendments Proposed to Chapter 5 and Chapter 90 KZC

Attachment 6

Section Title of Chapter	Type of Amendment	Proposed Change	Rationale
KZC 90.75.3.c, Daylighting of Streams	Clarification	Clarify that the applicant is responsible for funding peer review, if deemed necessary by the planning official.	Clarification
KZC 90.85.3 and 90.85.4, Stream Channel Stabilization	Clarification	Change the process and decisional criteria for stream channel stabilization from a Process I to a Planning official Decision.	Clarification, to be consistent with the change proposed in 90.30
KZC 90.90, Minor Lakes- Totem Lake and Forbes Lake	Clarification	Remove reference to the older term "high waterline", and replace it with "ordinary high water mark" (OHWM).	Clarification. High Waterline and OHWM have the same definition in KZC. All references in the SMP and CAO to the older term high waterline should be replaced with OHWM for consistency and simplicity.
KZC 90.95 Fish and Wildlife Habitat Conservation Areas	Clarifications	<p>1. Remove the word "wildlife" from 90.95.8</p> <p>2. Update the criteria for providing wildlife corridor measures in a wildlife habitat management plan from a wetland score 5 or more points to 6 or more points. Clarify this reference is to wildlife habitat points.</p>	<p>1. Habitat and Species of Local Importance can refer to both fish and wildlife, so removing the word "wildlife" is more accurate.</p> <p>2. Clarification and revision for consistency with the revisions to the wetland section where a wildlife score of 5 is now grouped with the "low" function category. The cutoff for the wildlife corridor requirement in the wetland section is also 6 habitat points based on BAS.</p>
KZC 90.110, Critical Area Report	Clarifications	<p>1. Clarify in 90.110.4.h that Critical Area Report is submitted with development permit application</p> <p>2. Clarify the types of actions requiring a revegetation plan</p>	Clarifications
KZC 90.120, Limited Buffer Waivers	Policy amendment	Add a new buffer waiver for certain Type F streams, that would reduce the buffer from 100 to 50 feet, if the stream meets the definition of Type F but does not currently support fish use and it is determined that fish habitat could not be reasonably recovered based on criteria addressed in a critical areas report.	The State's stream classification system was designed for forested areas, and it does not account for piped, urbanized streams that provide little or no potential value for fish habitat. The change acknowledges this by allowing a smaller buffer, on a project by project basis, for streams that do not currently have fish, and which could not reasonably be restored to support fish use, though they otherwise meet the definition of Type F.
KZC 90.130, Vegetative Buffer Standards	Clarifications	<p>1. Clarify in 90.130.3 that the calculation of impervious area includes coverage of pervious pavement and/or pavers</p> <p>2. Clarify in 90.130.6 the types of actions requiring a vegetative buffer plan</p> <p>3. Clarify in 90.130.7 that a maintenance and monitoring plan is submitted with a development permit application and financial security is submitted with a building permit or land surface modification application and that that applicant is responsible for the cost of peer review</p>	Clarifications
KZC 90.160, Monitoring and Maintenance	Clarification	<p>1. Clarify that monitoring and maintenance applies to vegetative buffer plantings as well as mitigation (90.160.1.a and 90.160.3).</p> <p>2. KZC 90.160.4.d finish sentence to read "... and one site inspection in third year."</p>	Clarifications
KZC 90.180 Reasonable Use Exception	Clarification	<p>1. Remove zones and just list uses allowed</p> <p>2. Change "commercial" to "non-residential" in 180.6.b</p>	Clarifications
KZC 90.185, Nonconformances	1, 3, and 6. Clarifications 2, 4, and 5. Minor policy changes	<p>1. Clarify in 90.185.2.a that one-time expansion limit does not apply to above-ground floor expansions (i.e., building up).</p> <p>2. Allow reconstruction of nonconforming structures with the same square footage or smaller if the footprint is moved away from the critical area.</p> <p>3. Clarify in 90.185.4.c.3 that the 50 percent threshold applies to the primary structure and attached improvements</p> <p>4. Substitute "structure" for "building" in preface of 185.5.</p>	<p>1, 3, and 6. Clarification</p> <p>2. Allow incentive to improve conditions</p> <p>4. Since the expansion in this section won't increase the degree of nonconformance because it will occur outside the critical area, buffer or building setback, we don't care if it is a habitable building.</p> <p>5. A patio, deck, or walkway would be less impactful than a building.</p>

Table 6. City Initiated Amendments Proposed to Chapter 5 and Chapter 90 KZC

Attachment 6

Section Title of Chapter	Type of Amendment	Proposed Change	Rationale
		5. Discuss whether expansion in 185.6 can be a new patio, deck, or walkway (KCHA ADA ramp example) and not just an addition to a building. 6. Clarify that the one-time expansion is that specified in 90.185.6.b, c, d, and e.	
KZC 90.190, Critical Area Markers, Fencing and Signage	Clarification	Clarify "critical area or its buffer" in 90.190.2.b and 3.a.4	Clarification
KZC 90.195 Pesticide and Herbicide Use	1. Clarification 2. minor policy change	1. Remove reference to King County Stormwater Pollution Prevention Manual and clarify that BMPs apply to pesticides, herbicides, and fertilizers. 2. Remove 90.195.2	1. The manual does not include all of the herbicide and pesticide guidance that is included in code. 2. Ecology would not require a permit for herbicides sprayed on terrestrial systems.

ORDINANCE O-4700

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COMPREHENSIVE PLANNING AND LAND USE AND AMENDING THE COMPREHENSIVE PLAN ORDINANCE 3481, AS AMENDED, TO UPDATE CHAPTER XVI SHORELINE AREA AND APPROVING A SUMMARY FOR PUBLICATION, FILE NO. CAM19-00026.

1 WHEREAS, the City Council has received a recommendation from
2 the Kirkland Planning Commission and the Houghton Community Council
3 to amend certain portions of the Comprehensive Plan for the City,
4 Ordinance 3481, as amended, to ensure the Shoreline Area Element of
5 the Comprehensive Plan complies with the Growth Management Act, as
6 set forth in the report(s) and recommendation(s) of the Planning
7 Commission and the Houghton Community Council dated July 25, 2019,
8 and bearing Kirkland Planning and Building Department File No. CAM19-
9 00026; and

10
11 WHEREAS, prior to making the recommendation the Planning
12 Commission and Houghton Community Council, following notice as
13 required by RCW 35A.63.070, held on July 25, 2019, a joint public
14 hearing, on the amendment proposals and considered the comments
15 received at the hearing; and

16
17 WHEREAS, pursuant to the State Environmental Policy Act
18 (SEPA), there has accompanied the legislative proposal and
19 recommendation through the entire consideration process, a SEPA
20 addendum to the City of Kirkland 2015 Comprehensive Plan Update
21 Draft and Final Environmental Impact Statement (EIS), issued by the
22 responsible official pursuant to WAC 197-11-340 and WAC 197-11-625;
23 and

24
25 WHEREAS, in an open public meeting the City Council considered
26 the environmental documents received from the responsible official,
27 together with the report and recommendation of the Planning
28 Commission and the Houghton Community Council; and

29
30 WHEREAS, RCW 36.70A.130, requires the City to review all
31 amendments to the Comprehensive Plan concurrently and no more
32 frequently than once every year.

33
34 NOW, THEREFORE, the City Council of the City of Kirkland do
35 ordain as follows:

36
37 Section 1. Comprehensive Plan Text, Figures and Tables
38 amended: The Comprehensive Plan Shoreline Area, Ordinance 3481, as
39 amended, is further amended in accordance with **Exhibit A** attached to
40 this Ordinance and incorporated by reference.

41
42 Section 2. If any section, subsection, sentence, clause, phrase,
43 part or portion of this Ordinance, including those parts adopted by
44 reference, is for any reason held to be invalid or unconstitutional by any

45 court of competent jurisdiction, such decision shall not affect the validity
46 of the remaining portions of this Ordinance.

47
48
49 Section 3. To the extent the subject matter of this ordinance,
50 pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of
51 the Houghton Community Council, this ordinance shall become effective
52 within the Houghton Community Municipal Corporation only upon
53 approval of the Houghton Community Council or the failure of said
54 Community Council to disapprove this ordinance within 60 days of the
55 date of the passage of this ordinance.

56
57 Section 4. Except as provided in Section 3, this ordinance shall
58 be in full force and effect 14 days after final approval and adoption by
59 the Washington State Department of Ecology, which will be more than
60 five days from and after its passage by the City Council and publication
61 pursuant to Kirkland Municipal Code 1.08.017, in the summary form
62 attached to the original of this ordinance and by this reference approved
63 by the City Council as required by law.

64
65 Section 5. A complete copy of this Ordinance shall be certified
66 by the City Clerk, who shall then forward the certified copy to the King
67 County Department of Assessments.

68
69 Passed by majority vote of the Kirkland City Council in open
70 meeting this ___ day of _____, 2019.

71
72 Signed in authentication thereof this ___ day of _____,
73 2019.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

XVI. Shoreline Area

Department of Ecology Approval: July 26, 2010



A. Introduction

The City of Kirkland's Shoreline Master Program consists of shoreline goals and policies contained in this chapter, shoreline regulations contained in Chapters 83 and 141 KZC and the Kirkland Shoreline Restoration Plan. The program is adopted under the authority of Chapter 90.58 RCW and Chapter 173-26 WAC.

Statutory Framework

The City of Kirkland manages the shoreline environment through implementation of the Shoreline Master Program. The Washington State Shoreline Management Act (SMA) provides guidance and prescribes the requirements for locally adopted shoreline master programs. The goal of the SMA, passed by the Legislature in 1971 and adopted by the public in a 1972 referendum, is to "prevent the inherent harm in an uncoordinated and piecemeal development of the State's shorelines." The SMA establishes a broad policy giving preferences to uses that:

- Protect shoreline natural resources, including water quality, vegetation, and fish and wildlife habitat;
- Depend on the proximity to the shoreline (i.e., "water-dependent uses");
- Preserve and enhance public access or increase recreational opportunities for the public along shorelines.

The SMA establishes a balance of authority between local and State government. Under the SMA, Kirkland adopts a shoreline master program that is based on State guidelines but tailored to the specific needs of the community. The program represents a comprehensive vision of how shoreline areas will be used and developed over time.

The Department of Ecology has issued State guidelines for shoreline master programs in Chapter 173-26 WAC. The guidelines are intended to assist local governments in developing master programs, which must be accepted and approved by the Department of Ecology as meeting the policy objectives of the SMA established under RCW 90.58.020 as well as the criteria for State review of local master programs under RCW 90.58.090.

Vision

The City of Kirkland's identity is strongly influenced and defined by its waterfront setting. Views of Lake Washington give Kirkland its sense of place and the City's integrated network of trails, parks, and open spaces along the shoreline provide abundant opportunities for public access to the shoreline. The City's waterfront parks provide places and host events where people can gather and interact. Kirkland's shoreline commercial districts also provide opportunities for residents and visitors to enjoy the City's unique natural setting along the shoreline. The waterfront provides many varied recreational opportunities to meet the needs of Kirkland citizens and provides a gateway to the City. It also provides vital habitat for fish and wildlife and the natural systems within the shoreline serve many essential biological, hydrological and geological functions.

The shoreline zone is one of the most valuable and fragile of Kirkland's natural resources and, as a result, the utilization, protection, restoration, and preservation of the shoreline zone must be carefully considered.

The City developed its first Shoreline Master Program in 1974 as a component of the Comprehensive Plan. Key considerations within this plan and subsequent amendments included conservation, public access to the shoreline, and the guidance for water-oriented recreational uses to locate along the Kirkland shoreline. These initial policy objectives are reflected in today's protection of the City's significant natural areas as open space, as well as the extensive shoreline trail system and network of shoreline parks which have been established over time.

Over the significant time that has spanned since the original adoption of the City's first Shoreline Master Program, there have been substantial changes to the lakefront environment. Industrial uses, such as the shipyard previously located at Carillon Point, have left Kirkland's shoreline. The City has added significant publicly owned properties to our waterfront park system, most significantly the Yarrow Bay wetlands, Juanita Bay Park, Juanita Beach Park, and [O.O. Denny Park-David E. Brink Park](#). Water quality within Lake Washington, once severely impacted by nutrient loading from sewage, has remarkably improved since regional wastewater treatment plants were constructed and the final plant discharging directly into the lake was closed in 1967.

The lake environment has also been impacted by new challenges. The shoreline character has continued to change over time, as additional piers and bulkheads have been built, contributing to a loss of woody debris and other complex habitat features along the shoreline. Impervious surfaces have increased both within the shoreline area and in adjacent watersheds and this, together with consequent reduction in soil infiltration, has been correlated with increased velocity, volume and frequency of surface water flows. These and other changes have impacted the habitat for salmonids. In 1999, Chinook salmon and bull trout were listed as threatened under the Federal Endangered Species Act. The region's response to this listing has resulted in new scientific data and research that has improved our understanding of shoreline ecological functions and their value in terms of fish and wildlife, water quality, and human health.

To address these changes, comply with the mandates of the Shoreline Management Act, and enable the City to plan for emerging issues, ~~in 2008~~ the City ~~did initiated~~ an extensive update of its Shoreline Master Program ~~that was adopted in 2010~~. The ~~new~~ program responds to current conditions and the community's vision for the future.

In updating the program, the City's primary objectives were to:

- Enable current and future generations to enjoy an attractive, healthy and safe waterfront.
- Protect the quality of water and shoreline natural resources to preserve fish and wildlife and their habitats.
- Protect the City's investments as well as those of property owners along and near the shoreline.
- Have an updated Shoreline Master Program (SMP) that is supported by Kirkland's elected officials, citizens, property owners and businesses, the State of Washington, and other key groups with an interest in the shoreline.
- Efficiently achieve the SMP mandates of the State.

The Shoreline Master Program was again updated in 2019 through a periodic review process.

The City of Kirkland, through adoption of the Shoreline Master Program update, intends to implement the Washington State Shoreline Management Act (Chapter 90.58 RCW) and its policies, including protecting the State's shorelines and their associated natural resources, planning for and fostering all reasonable and appropriate uses, and providing opportunities for the general public to have access to and enjoy shorelines.

The City of Kirkland's Shoreline Master Program represents the City's participation in a coordinated planning effort to protect the public interest associated with the shorelines of the State while, at the same time, recognizing and protecting private property rights consistent with the public interest. The program preserves the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the State and protects the functions of shorelines so that, at a minimum, the City achieves a 'no net loss' of ecological functions, as evaluated under the Final Shoreline Analysis Report issued in December 2006. The Program also promotes restoration of ecological functions where such functions are found to have been impaired, enabling functions to improve over time.

The goals and policies of the SMA constitute one of the goals for growth management as set forth in RCW 36.70A.020 and, as a result, the goals and policies of this SMP serve as an element of Kirkland's Comprehensive Plan and should be consistent with other elements of the Comprehensive Plan. In addition, other portions of the SMP adopted under Chapter 90.58 RCW, including use regulations, are considered a part of the City's development regulations.

Organization

The policies are grouped under eight sections:

- Shoreline Land Use and Activities
- Shoreline Environment
- Parks, Open Space and Recreation

- Shoreline Transportation
- Shoreline Utilities
- Shoreline Design
- Shoreline Archaeological, Historic and Cultural Resources
- Restoration Planning

The Land Use section works together with other policies contained in this chapter of the Comprehensive Plan. The Land Use section addresses the general distribution and location of shoreline uses, the Shoreline Parks, Open Space and Recreation section more specifically addresses issues of public park operations and maintenance and standards for private shoreline recreation uses and modifications. The Environment section more specifically addresses shoreline critical areas, water quality, vegetation, and shoreline modifications such as filling and dredging. The Transportation section addresses both public access and circulation within the shoreline area. The Utilities section addresses utilities within the shoreline, while the Design section addresses public view corridors and designing for orientation to Lake Washington. The Archaeological, Historic and Cultural Resources section addresses identifying important sites and preventing destruction of the sites, and having educational projects and programs to appreciate the importance of the shoreline history. The Restoration section addresses the City's adopted Restoration Plan for restoring the shoreline areas to achieve net benefit in ecological conditions.

B. Shoreline Goals and Policies

1. Shoreline Land Use and Activities

Goal SA-1: Provide a high quality shoreline environment where:

- (1) Natural systems are preserved.
- (2) Ecological functions of the shoreline are maintained and improved over time.
- (3) The public enjoys access to and views of the lake.
- (4) Recreational opportunities are abundant.

The Kirkland shoreline forms the western boundary of the City and encompasses ~~52,729 lineal feet (9.9 miles)~~ approximately 50,000 lineal feet (9.5 miles) of Lake Washington waterfront. A significant portion of the City's shoreline is area zoned or designated as park/open space. Approximately 43 percent of the area within the shoreline jurisdiction, or a total of 139.7 acres of the shoreline, is within areas designated as park or open space. Except for a few anomalies, the high-functioning portions of the shoreline have been appropriately designated and preserved within these areas. The City's extensive network of parks also provides the public with significant access opportunities throughout the City.

Much of the remaining shoreline is fully developed with single-family residential uses or areas of concentrated, compact development containing commercial, multifamily, or mixed uses. In general, this pattern of land use is stable and only minimal changes are anticipated in the planning horizon. Redevelopment on some properties may result in single-family residences converting over time to multifamily or with new commercial or mixed uses replacing existing commercial uses. Given the lack of existing vacant land (~~only nine percent of the land within the shoreline is vacant~~), and much of that is encumbered by critical sensitive areas, additional housing or commercial square footage within the shoreline area will come over time as redevelopment and additions occur to existing developed properties.

Management of the shoreline area will need to carefully balance and achieve both shoreline utilization and protection of ecological functions. To protect valuable shoreline resources, the Shoreline Master Program limits the extent and character of a number of land uses and activities. Shoreline policies allow for a broad range of uses within the shoreline, while establishing limits to protect these shoreline resources and adjacent uses.

Shoreline policies aimed at protecting the natural environment address issues at both a broader scale, focusing on natural systems, as well as at the scale of ecological functions, which are the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Issues that must be addressed by the Shoreline Use section include:

- How to manage new growth and redevelopment to be sensitive to and not degrade habitat, ecological systems and other shoreline resources.
- How to foster those uses that are unique to or depend on the proximity to the shoreline or provide an opportunity for substantial numbers of the people to enjoy the shoreline.
- How to ensure that land uses and shoreline activities are designed and conducted to minimize damage to the ecology of the shorelines and/or interference with the public's use of the water and, where consistent with public access planning, provide opportunities for the general public to have access to the shorelines.
- How to protect the public right of navigation and ensure that uses minimize any interference with the public's use of the water.

Policy SA-1.1: Allow for a diversity of appropriate uses within the shoreline area consistent with the varied character of the shorelines within the City.

The City's shoreline area is a collection of varied neighborhoods and business districts, each containing their own distinctive character as well as biological and physical condition along the shoreline. Kirkland's shorelines contain valuable natural amenities, providing critical habitat for fish and wildlife within the Juanita Bay and Yarrow Bay wetlands, two high-functioning natural areas. The shoreline also contains portions of several business districts, each with its own distinctive identity, including the Central Business District, Juanita Business District, and Carillon Point. Medium to high density residential and commercial uses are located to the south of the Central Business District and west of Juanita Beach Park. The shoreline in these more urban areas is heavily altered with shoreline armoring, overwater coverage, and impervious areas. Single-family residential uses are prevalent in the area north of the Central Business District. The City also contains a system of waterfront parks, which provide a broad range of passive and active recreational activities and environmental protection.

Policy SA-1.2: Preserve and enhance the natural and aesthetic quality of important shoreline areas while allowing for reasonable development to meet the needs of the City and its residents.

These different and unique shoreline areas each contain qualities that contribute to Kirkland's shoreline identity, including waterfront orientation, shoreline public views and access, numerous and diverse recreational opportunities, abundant open space, natural habitat, and waterfront access trails. The Shoreline Master Program should seek to support these and other features which significantly contribute to the City's desired character along the shoreline.

Policy SA-1.3: Maintain existing and foster new uses that are dependent upon or have a more direct relationship with the shoreline and Lake Washington.



Carillon Point Marina

Certain shoreline uses are more dependent on or have a more direct relationship with the shoreline than others. The Shoreline Management Act requires that shoreline master programs give priority to:

- **Water-dependent uses.** A water-dependent use is dependent on the water by reason of the intrinsic nature of its operations, and cannot exist in any other location. Examples include swimming beaches, boat launches, boat piers, and marinas. Industrial water-dependent uses, such as ship building facilities, are not currently found nor are planned along the City's waterfront. The Kirkland waterfront contains several facilities that would be considered water-dependent uses. The City contains one public marina and several private marinas. Large private commercial marinas include Carillon Point Marina, Yarrow Bay Marina and Kirkland Homeport Marina. The Yarrow Bay Marina contains a retail fuel service facility for boats, while the tour boat operators working out of the City's public marina provide shoreline tours. The City should encourage these water-dependent uses to remain.
- **Water-related uses.** A water-related use is dependent on a shoreline location because it has a functional requirement associated with a waterfront location, such as the transport of goods by water, or uses that support water-dependent uses. Examples include boat sales and outfitters and manufacturers that transport goods by water. These uses are typically not located along Kirkland's shoreline, though the Yarrow Bay Marina contains a boat repair and service facility.

- Water-enjoyment uses. A water enjoyment use is a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use, or a use that draws substantial numbers of people to the shoreline and that provides opportunities, through its design, location or operation, for the public to enjoy the physical and aesthetic benefits of the shoreline. Examples include parks and trails, museums, restaurants, and aquariums. Water enjoyment uses such as restaurants, retail stores, and offices are the primary commercial use along Kirkland's shoreline.
- Single-family residential uses. There ~~are is a~~ single-family residential neighborhoods in the shoreline areas within the Market Neighborhood and the Finn Hill Neighborhood.
- Shoreline recreation. The shoreline contains an extensive network of open spaces and public parks along the shoreline, providing places for fishing, swimming, boating, wildlife viewing and other recreational and educational activities.

Shoreline Environment Designations

Goal SA-2: Provide a comprehensive shoreline environment designation system to categorize Kirkland's shorelines into similar shoreline areas to guide the use and management of these areas.

Environment designations are analogous to zoning designations for areas under SMP jurisdiction. See Figure SA-1, Shoreline Environment Designations Map. Their intent is to encourage uses that will protect or enhance the current or desired character of a shoreline based on their physical, biological and development characteristics.

Policy SA-2.1: Designate properties as Natural in order to protect and restore those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions that are sensitive to potential impacts from human use.

This type of designation would be appropriate for associated wetlands in and adjacent to Juanita Bay Park, the Yarrow Bay wetlands complex, and the portion of Juanita Bay Park located within shoreline jurisdiction. The following management policies should guide development within these areas:

- a. Any use or development activity that would potentially degrade the ecological functions or significantly alter the natural character of the shoreline area should be severely limited or prohibited, as follows:
 - 1) Residential uses should be prohibited, except limited single-family residential development may be allowed as a conditional use if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.
 - 2) Subdivision of the subject property as regulated under the provisions of KMC Title 22 should be prohibited.
 - 3) Commercial and industrial uses should be prohibited.
 - 4) Nonwater-oriented recreation should be prohibited.
 - 5) Roads, utility corridors, and parking areas that can be located outside of Natural designated shorelines should be prohibited unless no other feasible alternative exists. Roads, bridges and utilities that must cross a Natural designated shoreline should be processed through a Shoreline Conditional Use.
- b. Development activity in the natural environment should only be permitted when no suitable alternative site is available on the subject property outside of shoreline jurisdiction.
- c. Development, when feasible, should be designed and located to preclude the need for shoreline stabilization, flood control measures, native vegetation removal, or other shoreline modifications.
- d. Development activity or land surface modification that would reduce the capability of vegetation to perform normal ecological functions should be prohibited.

- e. Limited access may be permitted for scientific, historical, cultural, educational and low-intensity water-oriented recreational purposes, provided there are no significant adverse ecological impacts.

Policy SA-2.2: Designate properties as Urban Conservancy to protect and restore ecological functions of open space ~~and critical areas, floodplain and other sensitive lands~~, while allowing a variety of compatible uses.

This type of designation would be appropriate for many of the City's waterfront parks. The following management policies should guide development within these areas:

- a. Allowed uses should be those that preserve the natural character of the area and/or promote preservation and restoration within critical areas and public open spaces either directly or over the long term.
- b. Restoration of shoreline ecological functions should be a priority.
- c. Development, when feasible, should be designed and located to preclude the need for shoreline stabilization, flood control measures, native vegetation removal, or other shoreline modifications.
- d. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- e. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
- f. Commercial and industrial uses, other than limited commercial activities conducted accessory to a public park, should be prohibited.

Policy SA-2.3: Designate properties as Residential – Low (L) to accommodate low-density residential development.

This type of designation would be appropriate for single-family residential uses from one to nine dwelling units per acre for detached residential structures and one to seven dwelling units per acre for attached residential structures. The following management policies should guide development within these areas:

- a. Standards for density, setbacks, lot coverage limitations, shoreline setbacks, shoreline stabilization, vegetation conservation, critical area protection, and water quality should mitigate adverse impacts to maintain shoreline ecological functions, taking into account the following:
 - 1) The environmental limitations and sensitivity of the shoreline area;
 - 2) The level of infrastructure and services available; and
 - 3) Other Comprehensive Plan considerations.
- b. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
- c. Industrial, commercial, multifamily and institutional uses, except for government facilities, should be prohibited.

Policy SA-2.4: Designate properties as Residential – Medium/High (M/H) to accommodate medium and high-density residential development.

This type of designation would be appropriate for detached, attached, or stacked residential uses of up to 15 or more dwelling units per acre south of the Downtown and 19 to 24 dwelling units per acre west of Juanita Beach Park. Additional density is permitted under certain provisions of the Zoning Code, such as planned unit development, affordable housing, low impact development and cottage housing.

The following management policies should guide development within these areas:

- a. Standards for density, setbacks, lot coverage limitations, shoreline setbacks, shoreline stabilization, vegetation conservation, critical area protection, and water quality should mitigate adverse impacts to maintain shoreline ecological functions, taking into account the following:
 - 1) The environmental limitations and sensitivity of the shoreline area;
 - 2) The level of infrastructure and services available; and
 - 3) Other Comprehensive Plan considerations.
- b. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
- c. Visual and physical access should be implemented whenever feasible and adverse ecological impacts can be avoided. Continuous public access along the shoreline should be provided, preserved or enhanced.
- d. Industrial uses should be prohibited.
- e. Water-dependent recreational uses should be permitted.
- f. Limited water-oriented commercial uses which depend on or benefit from a shoreline location should also be permitted.
- g. Nonwater-oriented commercial uses should be prohibited, except for small-scale retail and service uses that provide primarily convenience retail sales and service to the surrounding residential neighborhood should be permitted along portions of the east side of Lake Washington Boulevard NE/Lake Street South.
- h. Institutional uses may be permitted in limited locations.

Policy SA-2.5: Designate properties as Urban Mixed to provide for high-intensity land uses, including residential, commercial, recreational, transportation and mixed-use developments.

This type of designation would be appropriate for areas which include or are planned for retail, office, and/or multifamily uses. The following management policies should guide development within these areas:

- a. Manage development so that it enhances and maintains the shorelines for a variety of urban uses, with priority given to water-dependent, water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments, or in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline.
- b. Visual and physical access should be implemented whenever feasible and adverse ecological impacts can be avoided. Continuous public access along the shoreline should be provided, preserved or enhanced.
- c. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

Policy SA-2.6: Designate properties as Aquatic to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

This type of designation would be appropriate for lands waterward of the ordinary high water mark. The following management policies should guide development within these areas:

- a. Provisions for the management of the Aquatic environment should be directed towards maintaining and restoring shoreline ecological functions.
- b. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

- c. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to minimize adverse visual impacts, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- d. New overwater structures for water-dependent uses and public access are permitted, provided they will not preclude attainment of ecological restoration.
- e. Public recreational uses of the water should be protected against competing uses that would interfere with these activities.
- f. Underwater pipelines and cables should not be permitted unless demonstrated that there is no feasible alternative location based on an analysis of technology and system efficiency, and that the adverse environmental impacts are not significant or can be shown to be less than the impact of upland alternatives.
- g. Existing residential uses located over the water and in the Aquatic environment may continue, but should not be enlarged or expanded.

Goal SA-3: Locate, design and manage shoreline uses to prevent and, where possible, restore significant adverse impacts on water quality, fish and wildlife habitats, the environment and other uses.

It is important that shoreline development be regulated to control pollution and prevention of damage to the natural environment. Without proper management, shoreline uses can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, stormwater runoff, introduction of pollutants, and vegetation modification and removal.

Given existing conditions, there is very little capacity for future development within the shoreline. However, it is anticipated that expansion, redevelopment or alteration to existing development will occur over time. With remodeling or replacement, opportunities exist to improve the shoreline environment. In particular, improvements to nearshore vegetation cover and reductions in impervious surface coverage are two key opportunity areas on private property to restore ecological function along the shoreline. Reduction or modification of shoreline armoring and reduction of overwater cover and in-water structures provide other opportunities.

Policy SA-3.1: Establish development regulations that avoid, minimize and mitigate impacts to the ecological functions associated with the shoreline zone.

In deciding whether to allow uses and activities in shoreline areas, the potential adverse impacts associated with uses or activities should be considered and avoided, where possible. This can be done by carefully selecting allowed uses, providing policies and standards to prevent or minimize adverse impacts, and carefully reviewing development proposals to prevent or minimize adverse impacts.

Policy SA-3.2: Provide adequate setbacks and vegetative buffers from the water and ample open space and pervious areas to protect natural features and minimize use conflicts.

The purpose of a setback is to minimize potential impacts of adjacent land uses on a natural feature, such as Lake Washington, and maximize the long-term viability of the natural feature. Setbacks perform a number of significant functions including reducing water temperature; filtering sediments and other contaminants from stormwater; reducing nutrient loads to lakes; stabilizing stream banks with vegetation; providing riparian wildlife habitat; maintaining and protecting fish habitats; forming aquatic food webs; and providing a visually appealing greenbelt and recreational opportunities.

Establishing the width of a setback so it is effective depends on the type and sensitivity of the natural feature and the expected impacts of surrounding land uses. In determining appropriate setbacks in the shoreline jurisdiction, the City should consider shoreline ecological functions as well as aesthetic issues.

Policy SA-3.3: Require new development or redevelopment to include establishment or preservation of appropriate shoreline vegetation to contribute to the ecological functions of the shoreline area.

Shoreline vegetation plays an important role in maintaining temperature, removing excessive nutrients, attenuating wave energy, removing sediment and stabilizing banks, and providing woody debris and other organic matter along Lake Washington.

The *Final WRIA 8 Chinook Salmon Conservation Plan* notes the importance of providing a vegetated riparian/lakeshore buffer and overhanging riparian vegetation to improve the habitat for juvenile Chinook salmon¹. As a result, when substantial new upland development occurs, the on-site landscaping should be designed to incorporate native plant buffers along the shoreline. Proper plant selection and design should be done to ensure that views are not diminished.

Policy SA-3.4: Incorporate low-impact development practices, where feasible, to reduce the amount of impervious surface area.

Low-impact development strives to mimic nature by minimizing impervious surface, infiltrating surface water through biofiltration and bio-retention facilities, retaining contiguous forested areas and maintaining the character of the natural hydrologic cycle. Utilizing these practices can have many benefits, including improvement of water quality and reduction of stream and fish habitat impacts.

Policy SA-3.5: Limit parking within the shoreline area.

Facilities providing public parking are permitted within the shoreline area as needed to support adjoining water-oriented uses. Private parking facilities should be allowed only as necessary to support an authorized use. All parking facilities, wherever possible, should be located out of the shoreline area.

Policy SA-3.6: Minimize the aesthetic impacts of parking facilities.

Parking areas should be placed, screened, and buffered to mitigate impacts through use of design techniques, such as location, lidding, landscaping or other similar design features to minimize the aesthetic impacts of parking facilities. Exterior parking areas should be located away from the shoreline or attractively landscaped with vegetation that will not obstruct views of the lake from the public right-of-way.

Policy SA-3.7: Limit outdoor lighting levels in the shoreline to the minimum necessary for safe and effective use.

Artificial lighting can be used for many different purposes along the waterfront, including to aid in nighttime activities that would be impossible or unsafe under normal nighttime conditions, for security, or simply to make a property more attractive at night. At the same time, the shoreline area can be vulnerable to impacts of light and glare, potentially interrupting the opportunity to enjoy the night sky, impacting views and privacy and affecting the fish and wildlife habitat value of the shoreline area. To protect the scenic value, views, and fish and wildlife habitat value of shoreline areas, excessive lighting is discouraged. Shoreline development should use sensitive waterfront lighting to balance the ability to see at night with the desire to preserve the scenic and natural qualities of the shoreline. Parking lot lighting, lighting on structures or signs, and pier and walkway lighting should be designed to minimize excessive glare and light trespass onto neighboring properties and shorelines.

Policy SA-3.8: Encourage the development of joint-use overwater structures, such as joint-use piers, to reduce impacts to the shoreline environment.

The presence of an extensive number of piers has altered the shoreline. The construction of piers can modify the aquatic ecosystem by blocking sunlight and creating large areas of overhead cover. Minimizing the number of new piers by using joint facilities is one technique that can be used to minimize the effect of piers on the shoreline environment.

Policy SA-3.9: Allow variations to development standards that are compatible with surrounding development to facilitate restoration opportunities along the shoreline.

The City should consider appropriate variations to development standards to maximize the opportunities to restore shoreline functions. For example, reductions in setbacks could be used to facilitate restoration in highly altered areas that currently provide limited function and value for such attributes as large woody debris recruitment, shading, or habitat.

Goal SA-4: Incorporate a variety of management tools, including improvement of City practices and programs, public acquisition, public involvement and education, incentives, and regulation and enforcement to achieve its goals for the shoreline area.

Because Kirkland's natural resources are located on both public and on private land, a variety of approaches is needed for effective management of the shoreline. Kirkland should ensure that it uses a mix of public education and involvement, acquisition, program funding, and improvement of City practices on City land, together with regulation and enforcement.

Goal SA-5: Ensure that private property rights are respected.

A significant portion of Kirkland's shoreline is located in private ownership. Aspects of the Shoreline Master Program, including development regulations, setback requirements, environmental regulations and other similar regulatory provisions, may take the form of limitations on the use of private property. In establishing and implementing these types of land use controls, the City should be careful to consider the public and private interests as well as the long-term costs and benefits.

Residential

Goal SA-6: Protect and enhance the character, quality and function of existing residential neighborhoods within the City's shoreline area.

Policy SA-6.1: Permit structures or other development accessory to residential uses.

Accessory uses such as garages, sheds, accessory dwelling units, and fences are common features normally applicable to residential uses. They should be permitted if located landward of the ordinary high water mark and outside of any critical area or critical area buffer.

Policy SA-6.2: New overwater residences are not a preferred use and shall not be permitted. Existing nonconforming overwater residential structures should not be enlarged or expanded.



Overwater residences on the lake

The City contains a number of existing overwater residential structures that were constructed prior to the City's limitation on overwater structures to water-dependent uses. These existing structures have created large areas of overhead cover, impacting the aquatic environment. Many of these structures are likely to be remodeled and modernized in the future and these activities should be carefully reviewed to prevent additional adverse impacts and to improve existing conditions, where possible.

Policy SA-6.3: Manage new subdivisions of land within the shoreline to:

- Avoid the creation of new parcels with building sites that would impact wetlands, streams, slopes, frequently flooded areas and their associated buffers;
- Ensure no net loss of ecological functions resulting from the division of land or build-out of the lots;
- Prevent the need for new shoreline stabilization or flood risk measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions;
- Implement the provisions and policies for shoreline designations and the general policy goals of this program; and
- Provide public access along the shoreline for subdivisions of five lots or more.

Though there is not a great capacity to add new units to the shoreline area through subdivision, if properties are divided they should be designed to ensure no net loss, minimize impacts, and prevent the need for new shoreline stabilization structures.

Policy SA-6.4: Evaluate new single-family development within areas impacted by critical areas to protect ecological functions and ensure some reasonable economic use for all property within Kirkland's shoreline.

West of and contiguous with the Yarrow Bay wetlands adjacent to the City limits there are a number of properties that were previously platted for residential use but remain vacant, forested, and impacted by critical areas. In addition, a few properties along the Forbes Creek corridor and Juanita Bay may be similarly encumbered. When considering development proposals on these properties, the City should use a process designed to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights.

Commercial

Goal SA-7: Plan for commercial development along the shoreline that will enhance and provide access to the waterfront.

Policy SA-7.1: Permit water-enjoyment uses within the shoreline area of the Central Business District.

Downtown Kirkland is an active urban waterfront which strongly benefits from its adjacency to Moss Bay. The Downtown area has a strong land use pattern that is defined by its restaurants, art galleries and specialty shops, which are connected within a pedestrian-oriented district. These uses draw substantial numbers of people to the Downtown and can provide opportunities, if appropriately designed and located, for the public to enjoy the physical and aesthetic benefits of the shoreline. For these reasons, water-enjoyment uses, such as restaurants, hotels, civic uses, and retail or other commercial, uses should be encouraged within the Downtown provided they are designed to enhance the waterfront setting and pedestrian activity.

Policy SA-7.2: Manage development in the shoreline area of the Central Business District to enhance the waterfront orientation.

The Central Business District contains extensive public use and views of the waterfront provided by public parks, street ends, public and private marinas, public access piers and shoreline public access trails. Yet, development along the shoreline has historically "turned its back" to Lake Washington, with active areas located opposite the lake and separated from it by large surface parking lots, limiting the ability to fully capitalize on the Downtown waterfront setting. Future growth and redevelopment along the shoreline in the Downtown should continue to reflect the waterfront setting and ensure that development is oriented to the lake. One key opportunity is to develop a large public plaza over the Marina Park parking lot in order to better connect the Downtown to the lake and the park.

Policy SA-7.3: Maximize public access, use, and visual access to the lake within Carillon Point and the surrounding commercial area.



Public access at Carillon Point

Carillon Point is a vibrant mixed-use development that contains office space, restaurants, and retail space in addition to a hotel, day spa and marina facilities. The site has been designed to provide both visual and physical access to the shoreline, including expansive view corridors which provide a visual linkage from Lake Washington Boulevard NE to the lake, as well as an internal pedestrian walkway system and outdoor plazas. The Central Plaza of Carillon Point is frequently used for public gatherings and events. The Plaza is encompassed by a promenade and Carillon Point's commercial uses. If new development or redevelopment occurs on this site, existing amenities related to public access, use and visual access to the lake should be preserved.

Immediately south of Carillon Point, the Yarrow Bay Marina and ~~an new~~ office development provides opportunities for public use and enjoyment of the waterfront, including boat rental facilities, a public waterfront trail and waterfront access area with seating and interpretative signs. In addition, public views across the site have been preserved in an expansive view corridor.

If new development or redevelopment occurs in the commercial area, the strong public access to and along the water's edge, waterfront public use areas, water-dependent uses such as the marinas, and views from Lake Washington Boulevard should be preserved to the greatest extent feasible.

Policy SA-7.4: Enhance the physical and visual linkages to Lake Washington in the Juanita Business District.

The shoreline area of the Juanita Business District presently contains a mix of retail, office and residential uses. Visual linkages to the lake in the Juanita Business District are limited, with existing development blocking most of the shoreline. Waterfront access trails are missing in several key locations, limiting access between Juanita Bay Park and Juanita Beach Park, which border the Business District on the north and south.

The ability to enhance physical and visual access to the lake is challenging in this area. Several of the shoreline properties are developed with residential condominiums, which are unlikely to redevelop. Some of the commercial properties are significantly encumbered by wetlands that are associated with Lake Washington. Should properties redevelop in this area, public access should be required as a part of redevelopment proposals, where feasible.

Despite these challenges, future redevelopment along the shoreline in the Juanita Business District should emphasize Juanita Bay as a key aspect of the district's identity, highlighting recreational opportunities available at Juanita Beach Park and providing better visual and pedestrian connections to both Juanita Bay and Juanita Beach Park and Lake Washington.

Policy SA-7.5: Allow limited commercial uses in the area located between the Central Business District and Planned Area 15 if public access to and use of the shoreline is enhanced.

Commercial uses which are open to and will attract the general public to the shoreline, such as restaurants, are appropriate within the urban area located between Downtown Kirkland and Carillon Point west of Lake Washington Blvd/Lake Street South. These uses will enhance the opportunity for public access to this segment of the shoreline, and will complement neighboring shoreline parks and, as a result, should be encouraged. To assure that these uses enhance the opportunity for the public to take advantage of the shoreline, these uses should include amenities where the public can view and enjoy the shoreline. These uses should also be limited and designed to assure that they do not adversely impact the natural environment and interfere with nearby water dependent and water-related uses.

Policy SA-7.6: Allow limited commercial uses, such as a hotel/motel and limited marina use, within Planned Area 3B.

Planned Area 3B is fully developed with multifamily residential uses and contains a private marina facility. The site is also used for overnight lodging. The site has also been improved with a public trail along its entire perimeter, providing public access to Lake Washington and visual access to the Yarrow Bay wetlands.

Policy SA-7.7: Nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or right-of-way.

There are several commercial properties which do not have direct frontage on Lake Washington, either because they are separated by right-of-way (Lake Washington Boulevard NE, Lake Street, and 98th Avenue NE) or by another property. These properties should be allowed a greater flexibility of uses, given the physical separation from the waterfront area.

Policy SA-7.8: Prohibit overwater commercial development other than piers and similar features that support water-dependent uses.

Overwater structures can adversely impact the shoreline environment and should be avoided, except where necessary to support water-dependent uses, and then only when appropriately mitigated.

Boating Facilities

Goal SA-8: Manage boating facilities to avoid or minimize adverse impacts.

Policy SA-8.1: Locate new boating facilities and allow expansion of existing facilities at sites with suitable environmental conditions, shoreline configuration, and access.

One public marina and several private marinas are located on the lake within Kirkland. The City's public pier is located Downtown at Marina Park. Large private marinas include Carillon Point Marina, Yarrow Bay Marina and Kirkland Homeport Marina. Other private marinas providing moorage for multifamily developments are also located along the shoreline.

As new boating facilities are established or existing ones expanded, the facility should be designed to:

- Meet health, safety, and welfare requirements, including provisions for pump-out facilities;
- Mitigate aesthetic impacts;
- Minimize impacts to neighboring uses;
- Provide public access;
- Assure no net loss of shoreline ecological functions and prevent other significant adverse impacts; and
- Protect the rights of navigation and access to recreational areas.

Policy SA-8.2: Require restoration activities when substantial improvements or repair to existing boating facilities is planned.

The Kirkland waterfront has been extensively modified with piers and other overwater structures. These overwater structures impact the nearshore aquatic habitat, blocking sunlight and creating large areas of overhead cover. These impacts, where they exist, should be mitigated when substantial improvements or repair to existing boating facilities are planned.

Restoration activities could include reducing or eliminating the number of boathouses and solid moorage covers, minimizing widths of piers and floats, increasing light transmission through overwater structures, enhancing the shoreline with native vegetation, improving shallow-water habitat, reducing the overall number and size of pier piles, and improving the quality of stormwater runoff.

Goal SA-9: Promote use of best management practices to control pollutants from boat use, maintenance and repair, as well as proper sewage disposal for boats and potential invasive vegetation transfer.

Marinas and the operation, maintenance and cleaning of boats can be significant sources of pollutants in water and sediments, as well as in animal and plant tissues. Significant steps have been taken at all levels of government and in the private sector to reduce the impacts of marinas and boating on the aquatic environment. The Federal Clean Water Act provides the federal government with the authority to regulate the discharge of boat sewage. In addition, the Department of Ecology has developed environmentally protective guidelines for the design and siting of marinas

and sewage disposal facilities. The State Parks and Recreation Commission's boater education program provides technical assistance and signage and other materials to marinas. At the local level, governments and private businesses participate in boater programs as well, educating their moorage clients and providing them with the means to dispose of their wastes properly. The City should work cooperatively with State agencies, marina operators and boat owners to continue to minimize the impacts of boating on the aquatic environment.

Managing Shoreline Modifications

Goal SA-10: Manage shoreline modifications to avoid, minimize, or mitigate significant adverse impacts.

Significant adverse impacts caused from shoreline modifications should be avoided, minimized, or mitigated in the following sequential order of preference:

- Avoiding the impact altogether by not taking a certain action or part of an action.
- Minimizing the impact(s) by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- Minimizing or eliminating the impact by restoring or stabilizing the area through engineered or other methods;
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
- Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
- Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
- Monitoring the hazard or other required mitigation and taking remedial action when necessary.

Policy SA-10.1: Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions.

Shoreline modifications are manmade alterations to the natural lake edge and nearshore environment and primarily include a variety of armoring types (some associated with fill), piers, and other in-water structures. These modifications alter the function of the lake edge, change erosion and sediment movement patterns, affect the distribution of aquatic vegetation and are often accompanied by upland vegetation loss. Impacts from these shoreline modifications can be minimized by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

Fill

Policy SA-10.2: Limit fill waterward of the ordinary high water mark to support ecological restoration or to facilitate water-dependent or public access uses.

Fill allows for the creation of dry upland areas by the deposition of sand, silt, gravel or other materials onto areas waterward of the ordinary high water mark. Fill has traditionally been used in the shoreline area to level or expand residential yards and, in many cases, has been associated with armoring of the shoreline. This use of fill has resulted in an alteration of the natural functions of the lake edge and has often been accompanied by a loss of upland vegetation. As a result, this use of fill should be discouraged.

Alternatively, fill can also be used for ecological restoration, such as beach nourishment, when materials are placed on the lake bottom waterward of the ordinary high water mark. This type of fill activity should be encouraged; provided, that it is designed, located and constructed to improve shoreline ecological functions.

Land Surface Modification

Policy SA-10.3: Limit Land Surface Modification activities in the shoreline area.

Land Surface Modification activities are typically associated with upland development. These activities have the potential to cause erosion and siltation, increase runoff and flood volumes, reduce flood storage capacity and damage habitat and therefore should be carefully considered to ensure that any potential adverse impacts are avoided or minimized. Impacts from Land Surface Modification activities can be avoided through proper site planning, construction timing practices, and use of erosion and drainage control methods. Generally, these activities should be limited to the maximum extent necessary to accommodate the proposed use, and should be designed and located to protect shoreline ecological functions and ecosystem-wide processes.

Dredging

Policy SA-10.4: Design and locate new shoreline development to avoid the need for dredging.

Policy SA-10.5: Discourage dredging operations, including disposal of dredge materials.

Dredging is typically associated with a reconfiguration of the lake bed or stream channel to remove sediments, expand a channel, or relocate or reconfigure a channel. For instance, dredging can be used to excavate moorage slips that have been filled in with sediments or are located in shallow water. In other cases, dredging can be used to remove accumulated sediment that has disrupted water flow and, as a result, water quality, as is the case at Juanita Beach Park.

Dredging activities can have a number of adverse impacts, such as an increase in turbidity and disturbance to or loss of animal and plant species. Dredging activities can also release nutrients in sediments, and may temporarily result in increased growth of nuisance macrophytes such as milfoil after construction is completed. Dredging can also release toxic materials into the water column. As a result, dredging activities should be limited except when necessary for habitat or water quality restoration, or to restore access, and where impacts to habitat are minimized and mitigated.

Shoreline Stabilization

Policy SA-10.6: Limit use of hard structural stabilization measures to reduce shoreline damage.



Bulkheads along the lake

Lake Washington is an important migration and rearing area for juvenile Chinook salmon. The juvenile Chinook salmon using the lake depend on the following habitat characteristics:

- Shoreline areas with shallow depths (>1 m).
- Gentle slope.

- Fine substrates such as sand and gravel.
- Overhanging vegetation/small woody debris.
- Small creeks with a shallow, low-gradient at the creek mouth².

Remaining areas with these characteristics should be protected and maintained, while developed areas along Kirkland's shoreline should be enhanced with these habitat features, where feasible.

Bulkheads and other forms of hard stabilization measures impact the suitability of the shoreline for juvenile Chinook salmon habitat, in particular the slope, depth and substrate materials of the shoreline. Shoreline protective structures such as bulkheads create deeper water with steeper gradient and a coarser bottom substrate. Waves no longer are able to dissipate energy over distance as they hit shallower bottom, rocks, or shoreline vegetation. Rather, the wave reflects off a vertical wall, causing scouring of sediment at the base of the wall. The finer sands are removed as the gravel is eroded away and the bottom substrate becomes coarser. The result is a much deeper and steeper nearshore environment, and often elimination of a beach.

Despite these potential ecological impacts, there are some areas along the City's shoreline, especially on shallow lots with steep banks, which may need some form of shoreline armoring in order to protect existing structures and land uses. It is the intent of this policy to require that shoreline stabilization be accomplished through the use of nonstructural measures, such as building setbacks or on-site drainage improvements, or soft structural measures, such as bioengineering or beach enhancement unless these methods are determined to be infeasible, based on a scientific or geotechnical analysis. In those circumstances where alternatives are demonstrated to not be feasible, the shoreline stabilization measures used should be located, designed, and maintained in a manner that minimizes adverse effects on shoreline ecology.

Policy SA-10.7: Design, locate, size and construct new or replacement structural shoreline protection structures to minimize and mitigate the impact of these activities on the Lake Washington shoreline.

Shoreline protective structures should be allowed to protect a legally established structure or use that is in danger of loss or substantial damage. The potential for damage must be conclusively shown, as documented by a geotechnical analysis, to be caused by shoreline erosion associated with wave action.

Where allowed, shoreline protection structures should minimize impacts on shoreline hydrology, navigation, habitat, and public access. Shoreline protective structures should be designed for the minimum height, bulk and extent necessary to address an identified hazard to an existing structure. As noted above, vegetation and nonstructural solutions should be used rather than structural bank reinforcement, unless these methods are determined to be infeasible, as documented by a geotechnical analysis.

Policy SA-10.8: Locate and design new development to eliminate the need for new shoreline modification or stabilization.



Soft shoreline restoration with native vegetation along the lake

New development should be located and designed so that new structural shoreline protection features are not needed.

Policy SA-10.9: Encourage salmon-friendly shoreline design during new construction and redevelopment by offering incentives and regulatory flexibility to improve the design of shoreline protective structures and revegetate shorelines.

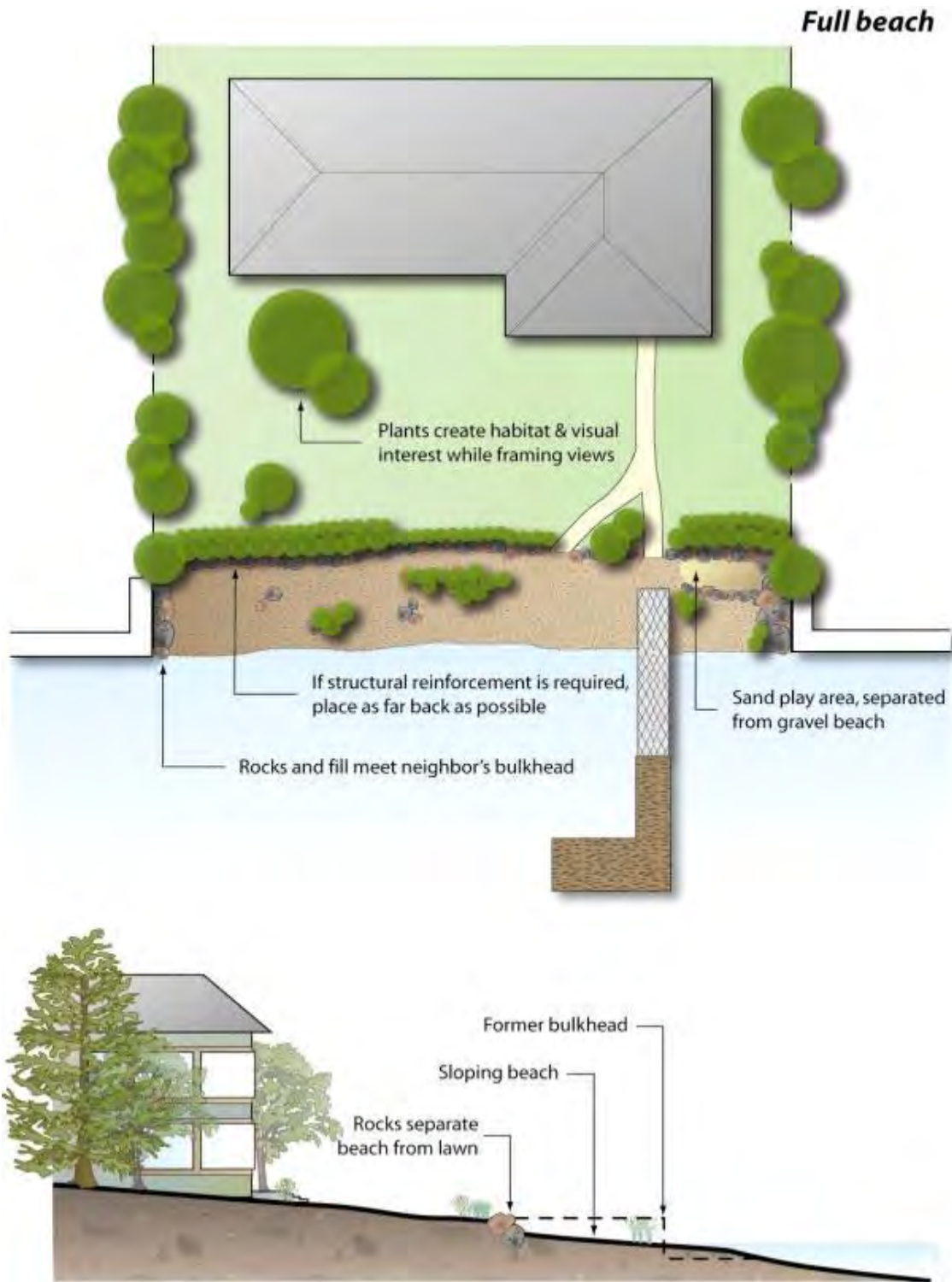


Illustration of soft shoreline restoration with native vegetation

In recent years, many bioengineered techniques have been developed to provide alternative shoreline protection methods. These features may employ the use of gravel substrate material, terraces, large flat rocks, shallow pools, logs, and vegetation to prevent erosion and provide an attractive, usable shoreline. The aim of these designs is to

reduce bank hardening, restore overhanging riparian vegetation, and replace bulkheads with sand beaches and gentle slopes. These techniques can provide many ecological benefits, including:

- Less turbulence.
- Shallower grade.
- Protection from predators.
- Finer sandy bottom.
- Increased food source.

The WRIA 8 Conservation Strategy notes the importance of reducing bank hardening, restoring overhanging riparian vegetation, replacing bulkheads and riprap with sandy beaches with gentle slopes to improve the habitat for juvenile Chinook salmon³. In order to facilitate the use of alternatives to shoreline stabilization composed of concrete, riprap, or other hard structural or engineered materials, the City should identify appropriate regulatory flexibility or offer incentives to shoreline property owners to voluntarily remove bulkheads and to revegetate the shoreline.

Policy SA-10.10: Expand outreach to lakeside property owners about shoreline landscape design, maintenance, and armoring alternatives.

The City should evaluate different outreach and education actions to foster stewardship of shoreline property owners and the general public, including but not limited to the following:

- Distribute educational materials on a range of topics, including salmon habitat needs, household and landscape best management practices, the value of large woody debris, the value of tree cover, and stormwater issues.
- Establish a contact list of shoreline property owners to facilitate educational outreach.
- Offer shoreline property owners workshops on “salmon-friendly” design.
- Use restoration projects sites for demonstration purposes and provide interpretation at restoration sites, including signage, tours, and other methods.
- Provide information about opportunities for involvement in community stewardship projects.
- Offer education to landscape designers/contractors on riparian design.
- Create local informational TV spots that could run on the City’s television channel.
- Focus environmental/science curricula on local watershed issues.

Public outreach efforts should focus on the opportunity to improve existing habitat, but also on the potential benefits that alternative shoreline stabilization can offer, including:

- Easier access to beach and water, especially with a kayak or other human-powered craft.
- Shallow gradient shore and water can be safer, especially for small children.
- More usable shoreline with beach and cove.
- Reduced maintenance.
- Potential for increased property values.

In-stream Structures

Policy SA-10.11: Limit the use of in-stream structures.

“In-stream structure” means a structure placed by humans within a stream waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. Within Kirkland, these features typically include those for flood control, transportation, utility service transmission, and fish habitat enhancement.

In-stream structures should only be used in those circumstances where it is demonstrated to provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-stream structures should be determined with due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

*Breakwaters and Similar Features**Policy SA-10.12: Limit the use of breakwaters and other similar structures.*

A breakwater typically refers to an off-shore structure designed to absorb and/or reflect wave energy back into the water body. Breakwaters can be floating or fixed in location and may or may not be connected to the shore. These modifications are limited within the City, but can be found at Kirkland Homeport Marina as well as at Juanita Beach Park, where a breakwater has been installed around the overwater boardwalk to shelter the swimming area. Breakwaters have the potential to adversely impact the shoreline environment, including impacts to sediment transport, deflection of wave energy, a decrease in water flushing and water exchange, to name a few. As a result, the installation of new breakwaters should be limited to those circumstances when it is shown to be necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. In these circumstances, the feature should be carefully designed to avoid, minimize, and then mitigate any adverse ecological impacts.

*Piers**Goal SA-11: Minimize impacts to the natural environment and neighboring uses from new or renovated piers.*

Piers near Juanita Bay

Policy SA-11.1: Design and locate private piers so that they do not interfere with shoreline recreational uses, navigation, or the public's safe use of the lake and shoreline.

Private piers should be located and designed to provide adequate separation from public parks, other adjoining moorage facilities and adjacent properties in order to limit any adverse impacts to safe navigation or recreational uses.

Policy SA-11.2: Design and construct new or expanded piers so that they are in character with nearby piers for length.

Private piers should not exceed the length of neighboring piers. A pier that exceeds the length of neighboring piers can be a boating hazard for the neighbors and the general public, result in unnecessary additional overwater coverage and create a structure out of character with the neighborhood.

Policy SA-11.32: Design and construct new or expanded piers and their accessory components, such as boat lifts and canopies, to minimize impacts on native fish and wildlife and their habitat.

The Kirkland waterfront has been extensively modified with piers and other overwater structures. These overwater structures impact the nearshore aquatic habitat, blocking sunlight and creating large areas of overhead cover. Piers and other overwater structures also shade the lake bottom and inhibit the growth of aquatic vegetation⁴. These types of structural modifications to shorelines are now known to benefit non-native predators (like largemouth and smallmouth bass), while reducing the amount of complex aquatic habitat formerly available to salmonids rearing and migrating through Lake Washington⁵. This can impact juvenile salmonids, in particular, due to their affinity to nearshore, shallow-water habitats. Chemical treatments of pier components, such as creosote pilings, installed prior to today's standards, have also impacted water and sediment quality in the lake.

The combined effect of an overwater structure and a dramatic change in aquatic vegetation results in a behavior modification in juvenile salmonids, which will often change course to circumvent large piers or other overwater structures rather than swimming beneath them⁶. These behavior modifications disrupt natural patterns of migration and can expose juvenile salmonids to increased levels of predation.

Minimizing overwater coverage and associated support structures can benefit salmon. Studies related to shading effects from varying types of pier decking indicate that grated decking provides significantly more light to the water surface than traditional decking methods and may lead to improved migratory conditions for juvenile Chinook salmon⁷.

Impact minimization measures, which have been identified by State and federal agencies, include, but are not limited to:

- Shared use of piers;
- Reducing or eliminating the number of boathouses and solid moorage covers (e.g., use of clear, translucent materials proven to allow light transmission for new canopies);
- Minimizing the size and widths of piers and floats;
- Increasing light transmission through any overwater structures (e.g., use of grated decking);
- Maximizing the height of piers above the water surface;
- Enhancing the shoreline with native vegetation;
- Improving shallow-water habitat;
- Reducing the overall number and size of pier piles; and
- Improving the quality of stormwater runoff.

Policy SA-11.43: Minimize aesthetic impacts of piers and their accessory components.

To minimize aesthetic impacts, ensure that lighting does not spill over onto the lake water surface, and minimize glare, piers should make use of nonreflective materials, minimize lighting facilities to that necessary to find the pier at night and focus illumination downward and away from the lake.

Shoreline Habitat and Natural Systems Enhancement Projects

Goal SA-12: Restore shoreline areas that have been degraded or diminished in ecological value and function as a result of past activities.

Policy SA-12.1: Include provisions for shoreline vegetation restoration, fish and wildlife habitat enhancement, and low-impact development techniques in projects located within the shoreline, where feasible.

Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Such projects may include shoreline modification actions such as modification of vegetation, removal of non-native or invasive plants, shoreline stabilization, dredging, and filling; provided, that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

The City's shoreline has been impacted by past actions and, as a result, there are many opportunities available for restoration activities that would improve ecological functions. For example, enhancement of riparian vegetation, reductions or modifications to shoreline hardening, and improvements to fish passage would improve the ecological function of the City's shoreline. Many of these restoration opportunities exist throughout the City on private property, as well as on City property, including parks, open spaces, and street ends. Both public and private efforts are needed to restore habitat areas. Opportunities include public-private partnerships, partnerships with other agencies and affected tribes, capital improvement projects, and incentives for private development to restore and enhance fish and wildlife habitat.

¹ WRIA 8 Steering Committee. 2005. Final Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Conservation Plan. July 2005.

² Tabor, R.A. and R.M. Piaskowski. 2002. Nearshore habitat use by juvenile Chinook salmon in lentic systems of the Lake Washington Basin, Annual Report, 2001. U.S. Fish and Wildlife Service, Lacey, WA.

Tabor, R.A., J.A. Schuerer, H.A. Gearns, and E.P. Bixler. 2004b. Nearshore habitat use by juvenile Chinook salmon in lentic systems of the Lake Washington Basin, Annual Report, 2002. U.S. Fish and Wildlife Service, Western Washington Fish and Wildlife Office, Lacey, Washington.

Tabor, R.A., H.A. Gearns, C.M. McCoy III, and S. Camacho. 2006. Nearshore habitat use by juvenile Chinook salmon in lentic systems of the Lake Washington Basin, Annual Report, 2003 and 2004. U.S. Fish and Wildlife Service, Lacey, WA.

³ WRIA 8 Steering Committee. 2005. Final Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Conservation Plan. July 2005.

⁴ Fresh, K.L. and G. Lucchetti. 2000. Protecting and restoring the habitats of anadromous salmonids in the Lake Washington Watershed, an urbanizing ecosystem. Pages 525-544 in E.E. Knudsen, C.R. Steward, D.D. MacDonald, J.E. Williams, and D.W. Reiser (editors). Sustainable Fisheries Management: Pacific salmon. CRC Press LLC, Boca Raton, FL.

⁵ Kahler, T., M. Grassley, and D. Beauchamp. 2000. A summary of the effects of bulkheads, piers, and other artificial structures and shorezone development on ESA-listed salmonids in lakes. Final Report. Prepared for City of Bellevue by The Watershed Company. 74 pp. Kerwin, J. 2001. Salmon and steelhead habitat limiting factors report for the Cedar-Sammamish Basin (Water Resource Inventory Area 8). Washington Conservation Commission. Olympia, WA.

Tabor, R.A., H.A. Gearns, C.M. McCoy III, and S. Camacho. 2006. Nearshore habitat use by juvenile Chinook salmon in lentic systems of the Lake Washington Basin, Annual Report, 2003 and 2004. U.S. Fish and Wildlife Service, Lacey, WA.

⁶ Tabor, R.A. and R.M. Piaskowski. 2002. Nearshore habitat use by juvenile Chinook salmon in lentic systems of the Lake Washington Basin, Annual Report, 2001. U.S. Fish and Wildlife Service, Lacey, WA.

Tabor, R.A., J.A. Schuerer, H.A. Gearns, and E.P. Bixler. 2004b. Nearshore habitat use by juvenile Chinook salmon in lentic systems of the Lake Washington Basin, Annual Report, 2002. U.S. Fish and Wildlife Service, Western Washington Fish and Wildlife Office, Lacey, WA.

Tabor, R.A., H.A. Gearns, C.M. McCoy III, and S. Camacho. 2006. Nearshore habitat use by juvenile Chinook salmon in lentic systems of the Lake Washington Basin, Annual Report, 2003 and 2004. U.S. Fish and Wildlife Service, Lacey, WA.

⁷ Gayaldo, P.F. and K. Nelson. 2006. Preliminary results of light transmission under residential piers in Lake Washington, King County, WA: A comparison between prisms and grating. *Lake and Reserv. Manage.* 22(3):245-249.

2. Shoreline Environment

Goal SA-13: Preserve, protect, and restore the shoreline environment.

Kirkland is enriched with valued natural features within the shoreline area that enhance the quality of life for the community. Natural systems serve many essential functions that can provide significant benefits to fish and wildlife, public and private property, and enjoyment of the shoreline area.

Shoreline Critical Areas

Note: The ~~Shoreline~~ Natural Environment Chapter of the Comprehensive Plan contains a set of goals and policies relating to critical areas, ~~including Goals NE-1, together with related Policies NE-1.1 through NE-1.6, Goal NE-2, together with related policies NE-2.1 through NE-7, and Goal NE-4.~~

Critical areas found within the shoreline area include geologically hazardous areas, frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas. Floodplains, while not a designated critical area, are also addressed in this section due to the relationship with frequently flooded areas within the City. No critical aquifer recharge areas are mapped within the City. Critical areas in the shoreline area are regulated by the critical areas regulations contained in Chapter 90 KZC and included by reference into the City's SMP.

Policy SA-13.1: Conserve and protect critical areas within the shoreline area from loss or degradation.

Environmentally critical areas within the shoreline area are important contributors to Kirkland's shoreline environment and high quality of life. Some natural features are critical to protect in order to preserve the important ecological functions they provide. The City also regulates and restricts development within critical areas because of the hazards they present to public health and safety. This policy is intended to ensure that the ecological functions and ecosystem-wide processes of these natural systems are maintained and improved.

Policy SA-13.2: Locate and design public access within and adjacent to critical areas to ensure that ecological functions are not impacted.

While public access for educational and public access purposes is an important objective, the location and design of public access must be carefully considered to avoid impacts to critical areas.

Geologically Hazardous Areas

Policy SA-13.3: Manage development to avoid risk and damage to property and loss of life from geological conditions.

Geologically hazardous areas include landslide hazard areas, erosion hazard areas and seismic hazard areas. These areas, as a result of their slope, hydrology, or underlying soils, are potentially susceptible to erosion, sliding, damage from earthquakes or other geological events. These areas can pose a threat to health and safety, if development is not appropriately managed and the area studied as a condition of permitting construction.

Wetlands

Policy SA-13.4: Protect and manage shoreline-associated wetlands.

Wetlands are areas that, under normal conditions, are inundated or saturated by surface or groundwater at a frequency and duration to support a prevalence of vegetation typically adapted for life in saturated soil conditions. The wetlands located within the shoreline area perform many ecological functions, including habitat for fish and wildlife, flood control, and groundwater recharge, as well as surface and groundwater transport, storage and filtration. Additionally, wetlands provide opportunities for research and scientific study, outdoor education, and passive recreation.

Kirkland's shoreline contains two extensive high-quality wetland systems: the wetlands located contiguous with the shoreline at Juanita Bay Park and extending up through the Forbes Valley (Forbes 1) and the Yarrow Bay wetlands (Yarrow 1). It is estimated that these wetlands combined are over 156 acres in size. The Forbes 1 wetland has several different vegetation classes, including forested, scrub-shrub, emergent, open water, and aquatic bed. The wetland contains a variety of plant species and types, including native red alder, willow, cottonwood, salmonberry, spiraea, red osier dogwood, skunk cabbage, buttercup, small-fruited bulrush, lady fern, soft rush, horsetail, cattail, and non-native Himalayan blackberry, reed canarygrass and purple loosestrife. Within the *Final Kirkland Shoreline Analysis Report* (2006), this system has been rated "high quality" for several functions, including habitat, water and sediment storage, water quality improvement, wave energy attenuation and bank stabilization, and nutrient and toxic compound removal.

The Yarrow Bay wetland complex similarly contains a number of wetland classes, including forested, scrub-shrub, emergent, open water, and aquatic bed. The Yarrow Bay complex also contains a mixture of plant species and types, including native red alder, willow, cottonwood, salmonberry, spiraea, red osier dogwood, and cattail and non-native Himalayan blackberry and reed canarygrass. The *Final Kirkland Shoreline Analysis Report* (2006) also rates this system "high quality" for numerous functions.

The Forbes 1 and Yarrow 1 wetlands are also mapped as priority wetlands by Washington Department of Fish and Wildlife (WDFW) (2006). Priority wetlands are those wetlands that have "[c]omparatively high fish and wildlife density, high fish and wildlife species diversity, important fish and wildlife breeding habitat, important fish and wildlife seasonal ranges, limited availability, [and] high vulnerability to habitat alteration."

This policy is intended to ensure that the City achieves no net loss of wetlands through retention of wetland area, functions and values. Mitigation sequencing is used to ensure impacts to wetlands are avoided, where possible, and mitigated, when necessary.

Wetlands are protected in part by buffers, which are upland areas adjacent to wetlands. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment loads; remove waterborne contaminants such as excess nutrients, synthetic organic chemicals (e.g., pesticides, oils, and greases), and metals; provide shade for surface water temperature moderation; provide wildlife habitat; and deter harmful intrusion into wetlands.

Fish and Wildlife Habitat Conservation Areas

Policy SA-13.5: Protect and restore critical freshwater habitat.

Fish and wildlife habitat conservation areas provide food, protective cover, nesting, breeding, or movement for threatened, endangered, sensitive, monitor, or priority species of plants, fish, or wildlife. Within the City, there are several areas that fall within this classification.

Lake Washington is known to support a diversity of salmonids, including Chinook salmon, steelhead trout, bull trout (listed as threatened under the Endangered Species Act), Coho salmon, sockeye salmon, and kokanee salmon.

Several streams pass through the City of Kirkland, discharging into Lake Washington. Several of these streams are known to support fish use, including Chinook (juvenile use of the mouths of several streams), Coho, sockeye salmon, and steelhead and cutthroat trout. Some of the most prominent fish-bearing streams include Yarrow Creek, Forbes Creek, ~~and~~ Juanita Creek ~~and~~ Denny Creek, which are protected within City parks at their outlet to Lake Washington. Salmonid and other fish species are also known to inhabit other Lake Washington tributaries such as Carillon Creek ~~and~~ Champagne Creek.

The Forbes Creek corridor is designated by WDFW as a priority "riparian zone" because it has been determined to meet these criteria: "[h]igh fish and wildlife density, high fish and wildlife species diversity, important fish and wildlife breeding habitat, important wildlife seasonal ranges, important fish and wildlife movement corridors, high vulnerability to habitat alteration, unique or dependent species." ~~Denny Creek is designated by WDFW as a biodiversity area and corridor with pileated woodpecker habitat. and bald eagle nests.~~

Both the Yarrow Bay wetlands and Juanita Bay Park extending up the Forbes Creek corridor provide excellent habitat for birds (including songbirds, raptors, and waterfowl), amphibians, mammals and even reptiles. Bald eagles

and ospreys regularly perch in trees adjacent to Juanita and Yarrow Bays, and forage in the Bays. Pileated woodpeckers (a State ~~Sensitive~~Candidate species) also reportedly nest in the Juanita Bay wetlands, and according to the East Lake Washington Audubon Society, purple martins (a State Candidate species) used nesting gourds installed in early 2006 around the Juanita Bay. ~~Although a bald eagle nest is mapped in the Yarrow Bay wetlands, it was last active in 1999 and the nesting pair relocated to Hunts Point. However, the mapped great blue heron nesting colony is still active.~~ Bald eagle (a Federal Species of Concern) nests can be found in Yarrow Bay and in the Market Street and Finn Hill neighborhoods near Lake Washington. Great Blue Herons (a State Monitor species) can be found in Yarrow Bay. Trumpeter Swans can be found in Juanita Bay. See WDFW maps and Kirkland Best Available Science Report dated December 2015 prepared by The Watershed Company.

This policy is intended to ensure that the ecological functions and ecosystem-wide processes associated with critical freshwater habitats are protected to assure no net loss, and that improvements are made through restoration activities. The City has worked to protect these valuable habitat areas through acquisition and management of public areas, as well as development controls, including protection of streams and wetlands and their associated buffers and coordination with federal and State agencies on protection issues associated with listed species.

Frequently Flooded Areas and Floodplains

Goal SA-14: Limit new development in floodplains.

Policy SA-14.1: Regulate development within the 100-year floodplain to avoid risk and damage to property and loss of life.

Frequently flooded areas help to store and convey storm and flood water; recharge groundwater; provide important riparian habitat for fish and wildlife; and serve as areas for recreation, education, and scientific study. Development within these areas can be hazardous to those inhabiting such development, and to those living upstream and downstream. Flooding also can cause substantial damage to public and private property that results in significant costs to the public as well as to private individuals.

The primary purpose of frequently flooded areas regulations is to regulate development in the 100-year floodplain to avoid substantial risk and damage to public and private property and loss of life. Lake Washington does not have a floodplain due to its lake elevation control by the Corps. However, floodplains are designated for both Yarrow Creek wetlands in association with Yarrow Creek and the low-gradient riparian area associated with Forbes Creek.

In both cases, the potential channel migration zone is protected as wetlands associated with Lake Washington. This protection limits development and modifications in those areas where the creeks have the potential to migrate. This protection limits the potential for migration to affect existing or future structures.

Water Quality and Quantity

Note: The ~~Natural~~Environment Chapter of the Comprehensive Plan contains a set of ~~goals and~~ policies relating to water systems and addressing water quality and quantity, ~~including Goal NE-2, together with related policies NE-2.1 through NE-2.7.~~ The Utilities Chapter also contains policies addressing storm water, ~~including Goal U-4, together with related policies U-4.1 through U-4.11.~~

Goal SA-15: Manage activities that may adversely impact surface and groundwater quality or quantity.

While most of the storm water entering streams and the lake does not come from the shoreline jurisdiction, surface water management is still a key component of the shoreline environment, due to the potential of activities in the larger watershed basin to contribute to water quantity and quality conditions in streams and the lake.

As part of Kirkland's Surface Water Utility, Surface Water Master Plan, and implementation of the NPDES Phase II Municipal Stormwater permit requirements, the City is pursuing activities and programs within the larger watershed basin to address flood protection, water quality improvement, and habitat protection and restoration.

Within the shoreline jurisdiction, the City can regulate development and provide education and incentives to minimize impacts to water quality and limit the amount of surface water runoff entering the lake.

Policy SA-15.1: Manage storm water quantity to ensure protection of natural hydrology patterns and avoid or minimize impacts to streams.

Native forest communities with healthy soil structure and organic contact help to manage the amount and timing of runoff water that reaches streams and lakes by intercepting, storing, and slowly conveying precipitation. As these systems are impacted and forests are replaced by impervious surfaces like roads, parking areas, and rooftops, larger quantities of water leave the developed watershed more quickly. Impervious surfaces affect the amount of water that seeps into the ground and washes into streams; they also affect how quickly the water gets there. When land is covered with pavement or buildings, the area available for rainwater and snowmelt to seep into the ground and replenish the groundwater is drastically reduced; in many urban areas it is virtually eliminated. The natural movement of water through the ground to usual discharge points such as springs and streams is altered. Instead, the natural flow is replaced by storm sewers or by more concentrated entrance points of water into the ground and surface drainages.

Changing the timing and amount of water runoff can lead to too much water going directly into streams in the rainy months of winter instead of soaking into the ground. Consequently, there is not enough water in the ground to slowly release into streams in the dry months of summer. Too much water in the winter causes unnaturally swift currents that can erode stream banks and scour and simplify the stream channels, damaging fragile fish habitat. In contrast, not enough water in streams in the summer leads to water temperatures too high to support fish and isolation of fish in small pools. These fundamental changes to hydrology alter watersheds in several ways, including the following:

- The size, shape, and layout of stream channels change to accommodate the new flow regime, thus changing physical habitat conditions for aquatic species.
- Erosion increases suspended solid concentrations and turbidity in receiving properties which can impair survival of aquatic species, including salmon.
- Opportunities for soils and vegetation to filter pollutants from stormwater are reduced, leading to water quality degradation. Stormwater can also carry heavy metals, household wastes, excess nutrients, and other pollutants to the shoreline area.
- Reduced streamside vegetation can lead to increased water temperatures that reduce survival of aquatic species, including salmon. Fine sediment smothers fish eggs, impacting future populations.

Discharges into the tributary streams, such as Forbes Creek, can have a significant impact on in-stream habitat complexity, peak flow magnitude and duration, bank stability, substrate composition, and a number of other parameters.

Policy SA-15.2: Prevent impacts to water quality.

This policy is intended to prevent impacts that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities or recreational opportunities.

Water is essential to human life and to the health of the environment. Water quality is commonly defined by its physical, chemical, biological and aesthetic (appearance and smell) characteristics. A healthy environment is one in which the water quality supports a rich and varied community of organisms and protects public health. Water quality influences the way in which Kirkland uses water for activities such as recreation and scientific study and education, and it also impacts our ability to protect aquatic ecosystems and wildlife habitats.

The degradation of water quality adversely impacts wildlife habitat and public health. This is particularly relevant to the shoreline, since all of the regulated surface waters, both natural and piped, are discharged ultimately to Lake Washington. The water quality impact of stormwater inputs is also significant. Stormwater runoff carries pesticides, herbicides and fertilizers applied to lawns and sports fields; hydrocarbons and metals from vehicles; and sediments

from construction sites, among other things. All of these things can harm fish and wildlife, their habitats, and humans.

Presently, Lake Washington is considered at risk for chemical contamination from hydrocarbon input from the urbanized watershed. The lake has also exhibited problems with levels of fecal coliform, ammonia, and PCBs present (*Final Kirkland Shoreline Analysis Report, 2006*).

The City has various programs to control stormwater pollution through maintenance of public facilities, inspection of private facilities, water quality treatment requirements for new development, source control work with businesses and residents, and spill control and response. These programs are managed under the Surface Water Utility, whose goals are:

- Flood protection;
- Water quality improvement; and
- Habitat protection and restoration.

Kirkland has also adopted a *Surface Water Master Plan* that sets goals and recommends actions for flood reduction, water quality improvement, and aquatic habitat restoration. This plan contains plans and programs to address water quality and high flow impacts from creeks and shoreline development through a number of mechanisms, including the following:

- Participation in WRIA 8 activities.
- Adoption of regulations and best management practices consistent with the NPDES Phase II permit requirements.
- Increased public education and outreach.
- Construction of projects that address existing flooding problems.
- Increased inspection and rehabilitation of the existing stormwater system.
- Identifying pollution “hot spots” for possible water quality treatment.
- Examining City practices and facilities to identify where water quality improvements can be made.
- Combining flow controls with in-stream habitat improvement projects in Juanita and Forbes creek watersheds.

Policy SA-15.3: Require environmental cleanup of previously contaminated shorelines.

Some of Kirkland’s shorelines previously supported industrial or commercial practices that may have resulted in environmental contamination. If not addressed, environmental contamination can continue to impact the environmental quality of Kirkland’s shorelines. The potential liability associated with contamination can complicate business development, property transactions or expansion on the property as well. Sites which are suspected of having past activities that may have resulted in environmental contamination should be evaluated and developers should comply with State and federal regulations and programs addressing environmental contamination, including the Model Toxics Control Act, as well as the ~~the~~ Department of Ecology’s Voluntary Cleanup Program.

Policy SA-15.4: Support public education efforts to protect and improve water quality.

Many residential yards within the shoreline area are dominated by lawn and landscaping, which can contribute water quality contaminants such as fertilizers, herbicides, and pesticides. Fertilizers and herbicides can affect the aquatic vegetation community, stimulating overgrowth of some species which can have a multitude of deleterious effects and suppress growth of other species. Pesticides also directly affect fish. Fish use their olfactory sense to find their way home. Garden chemicals that get into our lakes and streams may mask the smell fish use for homing. Scientists have found that pesticides also interfere with the ability of salmon to reproduce and avoid predators. Other effects

include impaired reproduction, skeletal deformities, decreased swimming ability, and toxicity to salmon food sources.

Presently, nutrient levels in Lake Washington do not represent a problem for salmonids (*Final Kirkland Shoreline Analysis Report*, 2006). Encouraging natural yard care practices and salmon-friendly landscape design can help to reduce the contaminant load into Lake Washington. Should nutrient levels continue to increase and represent a more significant problem, regulations limiting the use of pesticides, fertilizers and herbicides in the shoreline environment may become necessary.

Boat maintenance can also impact the aquatic environment with hydrocarbons, oils and other chemicals, and solvents. Providing information on boating practices, including operation and maintenance practices that can help prevent harmful substances from entering the water such as gasoline, two-stroke engine fuel, paint, and wood conditioner and other boat related substances, can also improve water quality. The City should also assist property owners by providing information on environmentally friendly methods of maintaining piers and decks.

Finally, the City should continue its efforts to increase the public's awareness of potential impacts of certain practices on water bodies and water quality, including improper disposal of hazardous materials.

Vegetation Management

Note: The ~~Natural~~ Environment Chapter of the Comprehensive Plan contains ~~goals and~~ policies relating to vegetation, ~~including Goal NE-3,~~ ~~together with related policies NE-3.1 through NE-3.3.~~ The Natural Resources Management Plan also addresses issues relating to vegetation management, ~~in Section C, Land and Vegetation.~~

Goal SA-16: Protect, conserve and establish vegetation along the shoreline edge.

Policy SA-16.1: Plan and design new development or substantial reconstruction to retain or provide shoreline vegetation.

Vegetation within the shoreline environment is essential for fish and wildlife habitat, providing habitat complexity and, in the case of riparian vegetation, supporting the insects that provide an important food source for salmon¹. Shoreline vegetation is also important in helping to camouflage young salmon as they hide amidst root wads, beneath overhanging vegetation, or within branches that have fallen into the water². Vegetation also helps to support soil stability, reduce erosion, moderate temperature, produce oxygen, and absorb significant amounts of water, thereby reducing runoff and flooding.



Cove with native shoreline vegetation along lake

Presently, shoreline vegetation and riparian structure are not properly functioning within Lake Washington (*Final Kirkland Shoreline Analysis Report*, 2006). The intent of this policy is to protect existing shoreline vegetation, in particular existing trees, and establish new vegetation, including native trees, shrubs and groundcover, along the shoreline edge to improve shoreline vegetation and riparian structure and the ecological functions that these shoreline conditions affect.

Policy SA-16.2: Minimize tree clearing and thinning activities along the shoreline and require mitigation for trees that are removed.

As a result of the functions that shoreline vegetation provides, it is important that vegetation conservation measures be implemented along the shoreline. New trees or other appropriate restoration should be installed to replace functions of trees that are removed, either through development or as part of ongoing management of property. Tree removal or topping for the purposes of creating views should be prohibited. Limited thinning of trees to enhance views or for maintenance of health and vigor of the tree may be appropriate in certain circumstances; provided, that this activity does not adversely impact tree health, ecological functions, and/or slope stability.

Applicants are encouraged to make trees that are removed available for City shoreline restoration projects.

Policy SA-16.3: Provide outreach and education materials to lakeside property owners about the importance and role of shoreline vegetation.

The City should offer shoreline property owners workshops or other materials to address the value of riparian vegetation, invasive species, erosion control, the value of large woody debris for salmon habitat, and natural yard care practices.

Public outreach efforts should focus on the opportunity to improve existing habitat and on the ability to use shoreline vegetation to:

- Create an attractive landscape that offers variety and seasonal color;
- Reduce maintenance;
- Provide privacy without sacrificing views;
- Increase property values;
- Improve water quality; and
- Reduce use by geese and other waterfowl.

Goal SA-17: Design aquatic vegetation management efforts to use a mix of various control methods with emphasis on the most environmentally sensitive methods.

Noxious weeds of Washington State are non-native, invasive plants defined by law as a plant that when established is highly destructive, competitive or difficult to control by cultural or chemical practices. These plants have been introduced intentionally and unintentionally by human actions. Most of these species have no natural enemies, such as insects or diseases, to help keep their population in check. As a result, these plants can often multiply rapidly. The two most common invasive species that are impacting Lake Washington's and Kirkland's marinas, residential waterfront owners and wildlife are Eurasian watermilfoil and white water lily. Eurasian watermilfoil, an aquatic plant found in lakes and slow-moving streams, can lower dissolved oxygen and increase pH, displace native aquatic plants, and increase water temperature.

Some aquatic weeds are controlled because they interfere with human needs such as boating and swimming in the lakes. Others pose a threat to the environment. The introduction of any non-native species has an effect on native species and habitats, although it is often difficult to predict those effects. However, there is a growing number of non-native aquatic plant and animal species whose current or potential impacts on native species and habitats are

known to be significant. Potential threats may be evidenced by the degree of negative impact these species have upon the environment, human health, industry and the economy (WDFW 2001). Potential negative impacts relevant to the Lake Washington environment include:

- Loss of biodiversity;
- Threaten ESA-listed species such as salmon;
- Alterations in nutrient cycling pathways;
- Decreased habitat value of infested waters;
- Decreased water quality;
- Decreased recreational opportunities;
- Increased safety concerns for swimmers; and
- Decreased property values.

Non-native species can be controlled through a variety of mechanisms, including mechanical and physical means (hand pulling, hand tools, bottom barrier, weed roller, mechanical cutters, and harvesters), biological controls and herbicides.

In response to the problem of invasive, non-native species entering Washington waters, laws have now been enacted requiring that all boats leaving a Washington boat launch be free of aquatic weeds and other debris, or otherwise risk being ticketed.

Aquatic vegetation management will likely take coordination on a larger scale to be effective. As a result, the City should work with landowners and neighboring jurisdictions to develop aquatic vegetation management plans on a large-scale basis.

¹ Christensen, D.L., B.R. Herwig, D.E. Schindler, and S.R. Carpenter. 1996. Impacts of lakeshore residential development on coarse woody debris in north temperate lakes. *Ecological Applications* 6:1143-1149.

² Tabor, R.A. and R.M. Piaskowski. 2002. Nearshore habitat use by juvenile Chinook salmon in lentic systems of the Lake Washington Basin, Annual Report, 2001. U.S. Fish and Wildlife Service, Lacey, WA.

Tabor, R.A., M.T. Celedonia, F. Mejia, R.M. Piaskowski, D.L. Low, B. Footen, and L. Park. 2004a. Predation of juvenile Chinook salmon by predatory fishes in three areas of the Lake Washington Basin. Miscellaneous report. U.S. Fish and Wildlife Service, Western Washington Fish and Wildlife Office, Lacey, WA.

3. Shoreline Parks, Recreation, and Open Space

Public Parks

Note: The Comprehensive Park, Open Space and Recreation Plan provides policies and planning for parks, open space and recreating within the City of Kirkland, including waterfront parks.

Goal SA-18: Provide substantial recreational opportunities for the public in the shoreline area.

With miles of shoreline, the City has preserved significant portions of its waterfront in public ownership as parks. Kirkland's waterfront parks are the heart and soul of the City's park system. They bring identity and character to the park system and contribute significantly to Kirkland's charm and quality of life. The 14 waterfront parks stretch from the Yarrow Bay wetlands to the south to Juanita Bay, Juanita Beach and O. O. Denny Parks to the north, providing Kirkland residents year-round waterfront access. Kirkland's waterfront parks are unique because they provide citizens a diversity of waterfront experiences for different tastes and preferences. Park activities and facilities include public docks and fishing access, boat moorage, boat launches, swimming, interpretative trails, and picnicking. Citizens can enjoy the passive and natural surroundings of Juanita Bay and Kiwanis Parks and the more active swimming and sunbathing areas of Houghton and Waverly Beach Parks.



Houghton Beach Park

Policy SA-18.1: Acquire, develop, and renovate shoreline parks, recreational facilities, and open spaces that are attractive, safe, functional, and respect or enhance the integrity and character of the shoreline.

While Kirkland is blessed with many extraordinary waterfront parks, we should never lose sight of capturing opportunities when additional waterfront property on Lake Washington becomes available. If privately held lakefront parcels adjacent to existing beach parks or at other appropriate locations become available, effort should be made to acquire these pieces. As new shoreline parks are acquired and developed, the ecological functions of the shoreline should be protected and enhanced.

Policy SA-18.2: Encourage water-oriented activities and programs within shoreline parks.

Kirkland's recreational programs provide opportunities for small craft programs such as canoeing/kayaking, sailing, rowing, and sail-boating. Programs oriented around non-motorized boating activities provide excellent opportunities to teach recreation skills emphasizing water and boating safety and should be expanded, where appropriate.

In addition, the City awards contracts to parties interested in occupying dock space in the Kirkland Marina and Second Avenue South Dock for commercial use. The City may also expand concession facilities within its parks.

These types of commercial recreational uses, which expand opportunities for the public to enjoy the shoreline, should be encouraged within the City's shoreline parks.

Policy SA-18.3: Continue use of opened waterfront street ends for public access.

Street ends are also wonderful opportunities to expand the public's access to the waterfront. The City has developed four street ends for the public's use and enjoyment. They are located along Lake Washington Boulevard at Street End Park, Settler's Landing, Fifth Avenue South and Second Street West. The City also has plans in place for development of the Lake Avenue West Street End Park.

Policy SA-18.4: Explore opportunities for use and enjoyment of unopened street ends.

Presently, two waterfront street ends, 4th Street West and 5th Street West, remain unopened for public use. The ability to use these street ends for public use is presently impacted by a lack of public access from the land to the street end. If the City decides to open the street end for public use, it should work with the community and neighboring residents to prepare and adopt a development and use plan.

Policy SA-18.5: Ensure that development of recreational uses does not adversely impact shoreline ecological functions.

The development of recreational facilities has the potential to adversely impact shoreline ecological functions, for instance by increasing the amount of physical access and activity as well as overwater coverage and motorized watercraft access. As a result, recreational uses shall be appropriately sited and planned to minimize any resultant impacts.

Goal SA-19: Protect and restore publicly owned natural resource areas located within the shoreline area.

Policy SA-19.1: Manage natural areas within the shoreline parks to protect and restore ecological functions, values and features.

Kirkland is fortunate to have two of Lake Washington's largest and most important wetland and wildlife resources in its public park system: Juanita Bay Park and the Yarrow Bay wetlands, both of which have been mapped as priority wetlands by the Washington Department of Fish and Wildlife (WDFW). Both the Yarrow Bay wetlands and Juanita Bay Park extending up Forbes Creek corridor provide excellent habitat for birds, amphibians, mammals and reptiles. The outlets for ~~four~~three of the most prominent streams within the City, Juanita Creek, Forbes Creek, ~~and~~ Yarrow Creek ~~and~~ Denny Creek, are also located within the City's shoreline parks. These streams are known to support salmonids. In addition, the Forbes Creek corridor has been designated by WDFW as a priority "riparian zone" due to its high fish and wildlife density, species diversity, important fish and wildlife breeding habitat, important wildlife seasonal ranges, high vulnerability to habitat alteration, and presence of unique or dependent species.

Preserving wildlife habitat, water quality, and forested areas is an important aspect of good park resource management. The existence of these natural areas also offers a variety of opportunities for aesthetic enjoyment, and passive and low-impact recreational and educational activities.

In order to protect wildlife habitat within Juanita and Yarrow Bay, it may be necessary to manage watercraft access, such as establishing restricted areas or limiting vessel speeds or other operations.

Policy SA-19.2: Promote habitat and natural resource conservation through acquisition, preservation, and rehabilitation of important natural areas, and continuing development of interpretive education programs.

The City parks also present an opportunity to implement restoration activities to improve degraded wetlands and habitat, control the spread of noxious plants, and improve the water quality of streams. As noted in the *Final Kirkland Shoreline Analysis Report* (December 2006), the City has initiated several studies to address restoration opportunities within Juanita Beach Park and Juanita Bay Park. In addition, the City has adopted a 20-Year Forest Restoration Plan to restore Kirkland's urban forests by removal of invasive plants and planting native species for the sustainability of the forest and its habitat. The City has acquired properties within the shoreline area near the Yarrow Bay wetlands impacted by critical areas and will continue to explore similar acquisition opportunities. The Parks

Department has also established an interpretative program in Juanita Bay Park and will evaluate appropriate opportunities to expand this type of educational resource within natural areas.

Goal SA-20: Use a system of best management practices and best available technologies in the construction, maintenance and renovation of recreational facilities located in the shoreline environment.

The high visibility and use of Kirkland's waterfront parks require high levels of maintenance, periodic renovation, and security. Swimming beaches, piers, recreational moorage facilities, boat ramps, and shoreline walkways must be kept safe and in good condition for the public's enjoyment and use. Maintenance of these recreational facilities should be done in a way that minimizes any adverse effects to aquatic organisms and their habitats. Renovation of these areas also provides an opportunity to restore areas impacted by historical shoreline modifications such as alteration of shoreline vegetation, construction of bulkheads, and piers and docks.

Policy SA-20.1: Incorporate salmon-friendly pier design for new or renovated piers and environmentally friendly methods of maintaining docks in its shoreline parks.



Marina Park pier with grating decking

Overwater coverage and in-water structures can adversely impact ecological functions and ecosystem-wide processes. As the City renovates or constructs new overwater structures, it should incorporate impact minimization measures, such as minimizing widths of piers and floats, increasing light transmission through any overwater structures, enhancing the shoreline with native vegetation, improving shallow-water habitat, and reducing the overall number and size of pier piles, in order to minimize the impacts of these structures. Opportunities exist to reduce overwater coverage and in-water structures in a number of shoreline parks, including Juanita Beach Park, Waverly

Nearshore native vegetation at Juanita Beach Park

The City's parks and natural areas are a reflection of the values of the Kirkland community. The Parks Department strives to ensure that the public landscape remains attractive, while meeting the expectations of our users and preserving our parks and natural spaces for generations to come.

Opportunities exist to improve nearshore native vegetation in a number of shoreline parks, including Juanita Beach Park, [O.O. Denny Park](#), Waverly Beach Park, the Lake Avenue West street end park, Marina Park, David E. Brink Park, Settler's Landing, Marsh Park, and Houghton Beach Park. Restoration activities could include such practices as native plant buffers at the shoreline edge, control of noxious and invasive species, implementation of sound horticultural practices, use of Integrated Pest Management (IPM) techniques, organic fertilizers, and natural lawn care practices.

Since 1998, the Kirkland Parks Department has been following an Integrated Pest Management (IPM) program. IPM is a sustainable approach to managing pests by combining cultural, mechanical, biological and chemical methods in a way that provides effective and efficient maintenance of the City's park system.

The objectives of the IPM policy are:

- Protect the health, safety and welfare of the environment and community.
- Provide efficient, cost effective maintenance of the City's park system using non-chemical controls whenever possible.
- Design new and renovate existing landscape areas that suit site conditions with sustainable maintenance practices.
- Restore, create and protect environmentally valuable areas such as wetlands, riparian areas, forests, meadows, and wildlife habitat.

The IPM decision making process brings into play multiple strategies that are utilized as tools to help implement the program, including (but not limited to):

- The use of sound horticultural practices to optimize plant health and suppress insects, disease and weed growth.
- Site appropriate design with the use of disease and drought tolerant native plants.
- The use of natural control agents that act as predators or parasites of pest species.
- The use of beneficial organisms that improve plant health by enhancing the soil quality.
- The use of a variety of tools, equipment and, most importantly, people to assist with pest control.

The long-range goal of this program is for the parks and open spaces to be pesticide-free.

The Kirkland Parks Department is undertaking efforts to control invasive vegetation, including eradication and replanting with native vegetation, within Juanita Bay Park, under the recommendations contained within the Juanita Bay Park Vegetation Management Plan prepared in 2004 by Sheldon and Associates, Inc. It divides the park into 10 management areas by habitat type that are distributed among three landscape zones based on location and historic use. Goals and objectives were established for each landscape zone, and then treatments were suggested for each management area within the landscape zones. The primary objective for the less developed landscape zones is removal of invasive species and replacement with native species, as well as supplementation of existing native vegetation to increase species and habitat diversity.

The Kirkland Parks Department has also initiated a program to install water intakes in Lake Washington for use as irrigation of Kirkland Parks. The water withdrawn from Lake Washington by Parks would be used to irrigate eight parks, which are currently provided with irrigation water from the City's potable water system. In conjunction with this project, the Parks Department plans to install vegetation along the shoreline edge.

Policy SA-20.4: Minimize impacts from publicly initiated aquatic vegetation management efforts.

The Kirkland Parks Department undertakes mechanical aquatic vegetation management efforts at both Houghton and Waverly Beach Parks to control milfoil. After attempts to use biological and mechanical means to control aquatic invasive species at Juanita Bay Park, the Kirkland Parks Department has initiated an herbicide application. Aquatic vegetation management efforts can have potential negative impacts relevant to the Lake Washington environment and therefore control efforts should be designed to use a mix of various methods with emphasis on the most environmentally sensitive methods.

Policy SA-20.5: Control non-native species which impact Kirkland's shoreline.

The City Parks Department periodically undertakes programs to control non-native species along the shoreline. For instance, the Parks Department has planned improvements within Juanita Beach Park to reduce waterfowl impacts at this park. Programs aimed at controlling impacts associated with non-native species use of the waterfront should continue. Any programs initiated should be designed to minimize any potential impacts to native species.

Policy SA-20.6: Implement low-impact development techniques, where feasible, in development of or renovations to recreational facilities along City shorelines.

Low-impact development strives to mimic nature by minimizing impervious surface, infiltrating surface water through biofiltration and bio-retention facilities, retaining contiguous forested areas, and maintaining the character of the natural hydrologic cycle. Utilizing these practices can have many benefits, including improvement of water quality and reduction of stream and fish habitat impacts. The Parks Department has successfully incorporated low-impact development techniques with park development efforts, such as Waverly Park and Watershed Park. These techniques should also be considered for any improvements within shoreline parks.

Opportunities exist to reduce impervious surface coverage in a number of shoreline parks, including Waverly Beach Park, Street End Park, and Marsh Park and LID should be explored as a means to reduce this coverage.

Policy SA-20.7: Reduce or modify existing shoreline armoring within Kirkland's shoreline parks to improve and restore the aquatic environment.

Bulkheads or other types of shoreline armoring can adversely impact ecological functions and ecosystem-wide processes. Kirkland contains a number of structural shoreline stabilization measures, such as concrete or rip-rap bulkheads, within its shoreline parks. Opportunities exist to reduce shoreline armoring in a number of shoreline parks, including [O.O. Denny Park](#), Waverly Beach Park, Marina Park, David E. Brink Park, Settler's Landing, Marsh Park, and Houghton Beach Park. If repair or replacement is needed to these existing structures, the Parks Department should explore the use of nonstructural measures. Further, new development within the City's parks should be located and designed to eliminate the need for new shoreline modification or stabilization.

Goal SA-21: Undertake restoration opportunities to improve shoreline ecological functions and ecosystem-wide processes where feasible.

The City's shoreline parks present opportunities for restoration that would improve ecological functions, including reduction of shoreline armoring, reduction of overwater cover and in-water structures, improvement of nearshore native vegetation cover, reduction of impervious surface coverage, control of invasive vegetation, and improvement of fish passage where possible.

In addition, many projects planned under the Surface Water Management Utility would provide wetland enhancement, fish passage improvement, bioengineered streambank erosion, restoration of armored streambanks, flood abatement, and water quality improvement. While many of these projects are planned "upstream" of shoreline jurisdiction, they can still have positive effects on the shoreline environment.

4. Shoreline Transportation

Note: The Transportation Chapter of the Comprehensive Plan contains a set of goals and policies relating to vehicular, bicycle and pedestrian circulation.

Streets

Goal SA-22: Provide for safe and efficient movement of vehicles, bicycles and pedestrians within the shoreline area, while recognizing and enhancing the unique, fragile and scenic character of the shoreline area.

Policy SA-22.1: Maintain a roadway network which will efficiently and safely provide for vehicular circulation within the shoreline area.

The existing vehicular circulation system in Kirkland's shoreline area is largely complete, with several major roadways located within the shoreline jurisdiction, including portions of Lake Washington Boulevard NE/Lake Street South and Market Street/98th Avenue NE, as well as neighborhood access streets and driveways. The City should undertake improvements, as necessary, to address needed safety, capacity or efficiency improvements within the shoreline area.

Policy SA-22.2: Enhance Lake Washington Boulevard NE and Lake Street South to improve their function for scenic views and recreational activities, as well as for local access and as a commute route.

Lake Washington Boulevard is designated as a major arterial and provides the major north-south route through Kirkland south of the Central Business District and west of I-405. The Boulevard also provides local access for a substantial number of residential developments and businesses. The Boulevard functions as a major pedestrian and bicycle corridor, serving waterfront park users, joggers, strollers, and Downtown shoppers. The City should continue to manage this network to meet the needs of the broad variety of users, while maintaining the scenic quality of this roadway network.

Traffic along Lake Washington Boulevard and Lake Street South has increased over time, restricting local access to and from these streets and creating noise, safety problems, and conflicts for pedestrians, bicyclists, and adjacent residents. Solutions to these problems should be sought which recognize that these streets have a scenic and recreational function which is as important as their function as a commute route. Improvements to these streets should help accommodate their broader amenity function in such a manner that the safety of all the diverse users is enhanced. Accordingly, the following improvements would be desirable:

' Widening of sidewalks or development of landscape strips or landscaped median islands to separate traffic and provide pedestrian safety.

Installation of pedestrian crossings at intersections and adjacent to waterfront parks where safety considerations allow such installation.

Continuation and widening of bicycle lanes.

Limitations on the number of new curb cuts and consolidation of driveways, where possible.

Restrictions on turning movements by installation of c-curbs or other techniques, where needed.

Policy SA-22.3: Design transportation improvement projects within the shoreline to avoid, minimize and mitigate environmental impacts.

Transportation facilities should be designed to have the least possible effect on shoreline features. When planning transportation facilities, both public and private, the environmental impacts of the facility need to be evaluated and minimized, and appropriate mitigation included. Environmental impacts of transportation facilities and services can

include wetland and stream encroachment, vegetation removal, air quality deterioration, noise pollution, and landform changes.

Policy SA-22.4: Design transportation improvement projects to maximize opportunities to improve existing shoreline ecological functions.

Transportation improvement projects located within the shoreline should include provisions for shoreline vegetation restoration, fish and wildlife habitat enhancement, and low-impact development techniques, where practicable and feasible.

Policy SA-22.5: Design transportation improvement projects to enhance scenic amenities and reflect neighborhood character.

Roadways should be designed to maximize views of the lake, where feasible. Shoreline roadways should also be designed with pedestrian improvements, such as widened sidewalks, and amenities such as benches or view stations and public sign systems that identify significant features along the shoreline such as historic or scenic features, parks and public access easements. In addition, appropriate landscaping and street tree selection should be used for rights-of-way with public views to maintain the views as the vegetation matures.

Policy SA-22.6: Incorporate best management practices into road and utility maintenance activities.

Road maintenance activities are necessary to clean out sediment and debris from drainage systems, which provides benefits to salmon habitat by preventing pollutants and sediments entrapped in stormwater facilities from entering surface or groundwater. The activities can also have adverse water quality impacts, directly affecting aquatic species. In order to minimize any potential adverse impacts, the City road maintenance crews should continue to use best management practices, such as those incorporated into the Regional Road Maintenance ESA Program Guidelines, to guide their maintenance activities. The Regional Road Maintenance ESA Program Guidelines (Regional Program) describe physical, structural, and managerial best management practices designed so that when they are used, singularly or in combination, they reduce road maintenance activities' impacts on water and habitat.

Pedestrian/Bicycle Circulation

Goal SA-23: Provide the maximum reasonable opportunity for the public to view and enjoy the amenities of the shoreline area.

Policy SA-23.1: Provide a public access system that is both physical and visual, utilizing both private and public lands, consistent with the natural character, private rights and public safety.

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the State, and to view the water and the shoreline from adjacent locations. Public access is a key component of the Shoreline Management Act and is one of the preferred uses in the shoreline area and should be encouraged, both in private and public developments and public acquisition.

Developing public access to the shoreline area has long been a priority of the City. Except for single-family residential areas or environmentally ~~critical sensitive~~ areas, the City has sought development to provide public access to the water's edge and along the shoreline as much as possible. Based on this approach, the City has made significant progress towards establishing continuous pedestrian access along the water's edge along portions of the shoreline.

In addition to these public access easements, the City has, over time, acquired many shoreline properties and designated these properties for park/open space and developed access trails.

Policy SA-23.2: Enhance and maintain pedestrian and bicycle infrastructure within the shoreline area.

Pedestrian and bicycle movement on and off roadways in the shoreline area should be encouraged wherever feasible. Access points to and along the shoreline as well as shoreline recreational facilities should be linked by pedestrian and bicycle pathways developed as close to the water's edge as reasonable.

The City should work to infill key gaps in existing shoreline access by connect existing pathways and linking existing access points to and along the shoreline, where feasible. In addition, the City should work to complete bicycle improvements by infilling gaps in existing routes and making any necessary safety improvements.

The following identifies some of the key opportunities available to improve public access. Some of the sites are located within the shoreline area, while others located outside the shoreline jurisdiction are represented since they provide an important connection to the shoreline. These connections should be sought, either through a required condition of development, or, where appropriate, through use of public funds to acquire and develop public pedestrian walkways:

”Connecting Juanita Bay Park and Juanita Beach Park. The City should seek to complete a public pedestrian walkway along the shoreline from Juanita Bay Park to Juanita Beach Park. Because of the presence of wetlands, the walkway should be designed so as to cause the least impact. The City should also pursue improvements to connect the existing bicycle lanes along Market Street to those on Juanita Drive.

”Juanita Bay Park – provide an additional connection from the causeway to the lake if protection of the natural features can be reasonably ensured.

—Forbes Valley Pedestrian Facility – provide a sidewalk adjacent to Forbes Creek Drive to connect Crestwoods Park and Juanita Bay Park.

—9th Street West – between Market Street and 20th Street across Juanita Bay Park should be improved for both pedestrians and bicycles.

—10th Street West – connecting Kiwanis Park and Juanita Bay Park.

—Waverly Way – should be improved with sidewalk on the west side of the street. View stations at the unopened street ends at 4th Street West and 5th Street West along Waverly Way should also be considered.

—Lake Avenue West Street End Park – complete a pedestrian pathway across Heritage Park from Waverly Way to the Street End Park.

—In Downtown south of Marina Park. In this area, buildings and parking lots interrupt the shoreline trail system that has been established on adjoining properties. Whenever possible, this shoreline trail system should be completed, in order to build upon this community amenity and open space.

—Lake Washington Boulevard NE – gaps in the existing public waterfront trail with connections to the Boulevard should be a required element of all shoreline developments other than single-family homes. Public use areas also should be encouraged adjacent to the westerly margin of Lake Washington Boulevard. The Boulevard is now a popular path for pedestrians, joggers, and bicyclists, and the continued improvement of this corridor as a promenade with wide sidewalks and public use areas, such as benches or view stations, pedestrian scale lighting, and public sign systems, would be a significant public asset.

—Juanita Drive– provide safe bicycle and pedestrian facilities along Juanita Drive while maintaining the corridor’s unique natural landscape and protecting the natural environment.

The City of Kirkland [Transportation Master Plan and Active Transportation Plan \(ATP\)](#), together with any additional routes identified in Neighborhood Plans, maps most of the bicycle and pedestrian facilities planned for future development. The Capital Improvement budget process prioritizes when routes will receive funding for improvements.

Policy SA-23.3: Require public access to and along the water’s edge and waterfront public use areas with new development or substantial redevelopment, except in limited circumstances.

In general, new development or substantial redevelopment should be required to install a public trail along the entire length of the waterfront with connections to Lake Washington Boulevard at or near each end. Areas which are available for other public waterfront activities also should be strongly encouraged. A public trail should not be

required associated with the construction of an individual new single-family residence or where it is demonstrated to be infeasible due to impact to the shoreline environment or due to constitutional limitations.

Policy SA-23.4: Minimize impacts on adjacent uses and the natural environment through the appropriate design of public access. Public access should also be designed to provide for public safety.

Developments required to provide public pedestrian access should be designed to minimize the impacts of the public access to adjoining properties, where possible, such as visually or physically separating the public pedestrian access from adjacent private spaces, or by placing an intervening structural or landscape buffer. The City may permit the establishment of reasonable limitations on the time, extent, and nature of public access in order to protect the natural environment and the rights of others.

In addition, public access trails should be located and designed to assure that users are visible and that pathways are well illuminated, if open in hours of darkness.

Public access through ~~critical sensitive~~-areas should be designed to avoid or minimize impacts to ~~critical sensitive~~-areas such as wetlands or streams or their protective buffers.

Policy SA-23.5: Cooperate on interagency and public-private partnerships to preserve and enhance water trails along Kirkland's shoreline where feasible.

The Lakes-To-Locks Water Trail is a day use trail with over 100 public places in a series of lakes and rivers extending from Issaquah to Elliott Bay to launch and land small non-motorized boats. The Lakes-to-Locks Water Trail contains nearly a dozen launch, landing and rest sites along Kirkland's Shoreline. The City should continue to participate in this type of partnership to increase access and use of the City's shoreline.

Air and Water Access

Goal SA-24: Provide opportunities for transportation alternatives, such as access by land or water.

Policy SA-24.1: Explore opportunities to establish passenger-only ferry service along Kirkland's shorelines.

As the roads and highways in the region have increasingly reached full capacity, there has been renewed interest in re-establishing waterborne transportation in Lake Washington, particularly passenger-only ferries. King County has established a countywide Ferry District, which plans to consider the delivery of passenger-only ferry services serving destinations in King County, including a route between Kirkland and Seattle. The City should participate in this effort and ensure that issues affecting the businesses and residents of Kirkland, such as location, traffic and parking, and the shoreline environment, are adequately addressed.

Policy SA-24.2: Allow limited floatplane moorage in commercial shoreline areas.

Floatplanes can be used for both commercial and recreational purposes. Commercial operations can include a variety of activities including air charter and scheduled air operations. These activities are water-dependent and should be permitted within high intensity shoreline commercial districts in limited circumstances, if evaluated through a public review process and where it has been determined that the facility or operation has been designed to minimize impacts, including impacts on native fish and wildlife and their habitat, as well as impacts to shoreline views ~~and community character~~. Further, the operation of these facilities should ensure protection of adjacent development and uses as well as human safety, including limiting noise and other impacts on residential uses. Floatplane facilities should be located so they do not interfere with public swimming beaches ~~and also maintain or safe~~ boating corridors. The floatplane operations should comply with State and federal requirements.

Policy SA-24.3: Limit helicopter landing facilities in the shoreline area.

Helicopter operations are not water-dependent and can include significant environmental issues such as noise pollution. As a result, helicopter landing facilities should not be permitted in the shoreline area, except as needed for emergency medical airlift.

5. Shoreline Utilities

Goal SA-25: Manage the provision of public and private utilities within the shoreline area to provide for safe and healthy water and sanitary sewer service, while protecting and enhancing the water quality and habitat value of the shoreline.

Policy SA-25.1: Locate new utilities and related appurtenances outside of the shoreline area, unless this location is reasonably necessary for the efficient operation of the utility.

Utilities are services that produce and carry electric power, gas, sewage, water, communications and oil. The provision of these services and the appurtenances associated with them can create substantial impacts on the landscape and the functioning of the natural ecosystem. To minimize potential impacts, these facilities should be located outside of the shoreline area, and in particular, outside of the aquatic environment, where feasible. If necessary within the shoreline, utility facilities should be located and designed in a manner that preserves the natural landscape and shoreline ecology, and minimizes conflicts with present and planned land uses.

Alternative energy use such as solar- and wind-based energy systems should be encouraged within the shoreline environment, provided that any potential adverse impacts are minimized.

Policy SA-25.2: Minimize impacts from the location, design, and maintenance of utility facilities located within the shoreline.

Careful planning and design is required to address impacts such as soil disturbance and intrusion on the visual setting. Potential adverse impacts should be minimized through the location, design and construction techniques used. For instance, where utility systems cross shoreline areas, clearing for installation or maintenance should be kept to a minimum width necessary to minimize impacts to trees and vegetation. Utilities should also be properly installed and maintained to protect the shoreline environment and water from contamination. The City should require location of utility lines prior to construction to avoid damaging the lines, incurring biological impacts, during construction.

Upon completion of utility installation or maintenance projects on shorelines, the shoreline area should be restored to pre-project configuration, replanted with native species and provided with maintenance care until the newly planted vegetation is established.

Even with revegetation, planting restrictions may limit the species that are replanted. As a result, existing functions may not be able to be fully restored. For this reason, utility corridors should be located outside of the shoreline jurisdiction, where possible.

Policy SA-25.3: Encourage consolidation of utilities within existing rights-of-way or corridors.

In order to minimize the extent of shoreline modified by improvements, utility facilities should utilize existing transportation and utility sites, rights-of-way and corridors whenever practicable, rather than creating new corridors in the shoreline environment. Joint use of rights-of-way and corridors in shoreline areas should be encouraged.

Policy SA-25.4: Locate utility facilities and corridors to protect scenic views and prevent impacts to the aesthetic qualities of the shoreline.

Utility lines and facilities, when they must be placed in a shoreline area, should be located so that they do not obstruct or destroy scenic views. Whenever feasible, these facilities should be placed underground, or designed to do minimal damage to the aesthetic qualities of the shoreline area.

6. Shoreline Design

Goal SA-26: Maintain and enhance Kirkland's orientation to and linkages with Lake Washington.

Policy SA-26.1: Preserve public view corridors along the City's street networks and public parks.

The street and waterfront park system provides a large number of local and regional views. The view corridors that lie within the public domain are valuable for the beauty, sense of orientation, and identity that they provide to Kirkland. The views also maintain the visual connection and perception of public accessibility to the lake. As a result, these views should be kept free of obstruction.

Policy SA-26.2: Locate and design new development to provide view corridors of Lake Washington from Lake Washington Boulevard and Lake Street South south of the Central Business District.

Kirkland's history, identity and character are strongly associated with its proximity and orientation to Lake Washington. Lake Washington Boulevard and Lake Street are the streets from which most residents and visitors view the lake, providing a lasting visual impression and helping to establish the visual identity of the City. As a result, visual access to Lake Washington from Lake Washington Boulevard and Lake Street should be an integral element in the design of development along the west side of these streets. Both public and private development in these areas should be designed to include an open area that provides an unobstructed view of the water beyond. View corridors should be situated on the property to provide the widest view of the lake. Existing structures in some areas block views of the lake. with renovation of existing structures, opening up of views should be encouraged.

The Central Business District (CBD) is a community activity area focused around its historic waterfront with extensive public use and views of the waterfront provided by public parks, street ends, public and private marinas, public access piers and shoreline public access trails. Because of this configuration and the desire to provide continuous pedestrian-oriented retail activity at the street, view corridors across private properties in the CBD should not be required.

Policy SA-26.3: Explore opportunities to provide visual and pedestrian access from Central Way and Lake Street with redevelopment efforts.

The City should explore opportunities to participate in a public/private partnership to redevelop the commercial block between Kirkland Avenue and Central Way with visual and pedestrian access from a series of at-grade pedestrian connections from Central Way and Lake Street which would open to a large public plaza constructed west of the buildings to enhance the Downtown's lake front setting.

Policy SA-26.4: Design water-enjoyment uses to provide significant opportunities for public enjoyment of the aesthetic, natural and recreational amenities of the shoreline.

Water-enjoyment uses, such as restaurants, hotels or other mixed-use commercial projects, bring substantial numbers of people to the shoreline and provide opportunities for the public to enjoy shoreline amenities. These uses are encouraged in urban mixed areas, such as Kirkland's Downtown area, and should be designed to respond to their shoreline location through a variety of measures, including the following:

- ''Architectural or site design elements that connect visually or physically to the lake.
- ''Orientation of views and windows to the lake.
- ''Orientation of entries, sight lines, buildings, pathways and other design elements to the shoreline.
- ''Incorporating interpretative signs.
- ''Locating service areas away from the shoreline.
- ''Incorporating substantial landscaping and open space.

”Providing outdoor seating or gathering places along the shoreline.

”Designing signs to be compatible with the aesthetic quality of the shoreline.

Enhancement of views should not take precedence over vegetation conservation and, as such, removal of vegetation necessary for shoreline function should not be allowed in cases where views are partially impaired by existing vegetation. New landscaping should be appropriately designed to preserve designated view corridors.

7. Shoreline Archaeological, Historic and Cultural Resources

Goal SA-27: Identify, protect, preserve, and restore important archeological, historical, and cultural sites located in the shoreline area.

Kirkland's shoreline area has a long history, dating back to use of Juanita Bay by Native Americans and use of Lake Washington for fish harvest by the Muckleshoot Tribe. The shoreline area also contains many historic structures, including residential structures and vessels moored along the City's shoreline.

Policy SA-27.1: Prevent destruction or damage to historic, cultural, scientific or educational resources located along the shoreline.

Steps should be taken to identify, recover and preserve any artifacts or other resources that may exist along the City's shoreline. The City should work with property owners and tribal, State, and federal governments as appropriate to assess sites and make arrangements to preserve historical, cultural and archaeological values in advance of planned development. Proposed development should be designed and operated to be compatible with continued protection of the historic, cultural or archaeological resource. If development occurs in areas documented to contain archaeological resources, a site inspection or evaluation by a professional archaeologist in coordination with affected tribes should be required prior to issuance of permits. If archaeological resources are uncovered during excavation, work on the site should immediately stop and notification to the City, the State Office of Archaeology and Historic Preservation, and affected tribes should be made to determine the appropriate course of action.

Policy SA-27.2: Encourage educational projects and programs that foster an appreciation of the importance of shoreline history.

Site development plans should incorporate measures for historic, cultural and archaeological resource preservation, restoration and education with open space or recreation areas whenever possible. Wherever feasible, shoreline development should recognize the former use of much of the City's shoreline area for such uses as boat yards, ferry landings and industrial sites.

8. Restoration Planning

Goal SA-28: Implement the projects, programs and plans established within the Restoration Plan as funding and staffing resources permit.

Restoration planning is an important component of the environmental protection policy of the Shoreline Management Act. Continued improvement of shoreline ecological functions requires a comprehensive watershed approach that combines upland and shoreline projects and programs. The City of Kirkland has adopted a Restoration Plan for the City's shorelines that provides the framework for the community's efforts to restore degraded portions of the City's shorelines.

The Restoration Plan provides multiple programmatic and site-specific opportunities for restoring the City's shoreline areas that outline opportunities to achieve a net benefit in ecological conditions. Ecological benefits that would be realized by implementing this plan include: increased use of soft approaches for shoreline stability and corresponding reductions in low-functioning hard shorelines; increased organic inputs, habitat, and filtration from shoreline riparian vegetation; improved wildlife corridor connectivity; improved habitat for salmon; displacement of noxious vegetation; and eventual introduction of woody debris.

PUBLICATION SUMMARY
OF ORDINANCE NO. O-4700

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COMPREHENSIVE PLANNING AND LAND USE AND AMENDING THE COMPREHENSIVE PLAN ORDINANCE 3481, AS AMENDED, TO UPDATE CHAPTER XVI SHORELINE AREA AND APPROVING A SUMMARY FOR PUBLICATION, FILE NO. CAM19-00026.

SECTION 1. Amends the Comprehensive Plan Shoreline Area, Ordinance 3481, as amended, and incorporated by reference.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Provides that the effective date of the ordinance is affected by the disapproval jurisdiction of the Houghton Community Council.

SECTION 4. Authorizes the publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as 14 days after final approval and adoption by the Washington State Department of Ecology.

SECTION 5. Directs the City Clerk to certify and forward a complete certified copy of the ordinance to the King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 06 day of November, 2019.

I certify that the foregoing is a summary of Ordinance O-4700 approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk

ORDINANCE NO. 4701

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING THE KIRKLAND ZONING CODE (ORDINANCE 3719 AS AMENDED) INCLUDING CHAPTERS 5, 83, 90, 141, AND 180, AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. CAM19-00026.

1 WHEREAS, the City Council has received a recommendation from
2 the Kirkland Planning Commission and the Houghton Community Council
3 to amend certain sections of the Kirkland Zoning Code, Ordinance 3719,
4 as amended, as set forth in that the report and recommendation of the
5 Planning Commission and Houghton Community Council dated July 25,
6 2019 and bearing Kirkland Planning and Building Department File
7 No.CAM19-00026; and

8
9 WHEREAS, prior to making the recommendation, the Kirkland
10 Planning Commission and Houghton Community Council, following
11 notice as required by RCW 36.70A.035, on April 25, 2019 and July 25,
12 2019, held public hearings on the amendment proposals and considered
13 the comments received at the hearings; and

14
15 WHEREAS, pursuant to the State Environmental Policy Act
16 (SEPA), there has accompanied the legislative proposal and
17 recommendation through the entire consideration process, a SEPA
18 Addendum to Existing Environmental Documents issued by the
19 responsible official pursuant to WAC 197-11-625; and

20
21 WHEREAS, in regular public meeting on November 6, 2019 the
22 City Council considered the environmental documents received from the
23 responsible official, together with the report and recommendations of
24 the Planning Commission, Houghton Community Council; and the
25 Washington State Department of Ecology; and

26
27 NOW, THEREFORE, the City Council of the City of Kirkland do
28 ordain as follows:

29
30 Section 1. Zoning Code Amended: The following chapters and
31 sections of the Kirkland Zoning Code are amended as set forth in
32 **Exhibit A** to this ordinance and incorporated by reference.

33 Chapter 5 – Definitions

34 Chapter 83 – Shoreline Management (Shoreline Master
35 Program)

36 Chapter 90 – Critical Areas: Wetlands, Streams, Minor Lakes,
37 Fish and Wildlife Habitat Conservation Areas,
38 and Frequently Flooded Areas

39 Chapter 141 – Shoreline Administration

40 Chapter 180 – Plates (Plate 27A, 47, 48A/B)

41
42 Section 2. If any section, subsection, sentence, clause, phrase,
43 part or portion of this ordinance, including those parts adopted by

44 reference, is for any reason held to be invalid or unconstitutional by any
45 court of competent jurisdiction, such decision shall not affect the validity
46 of the remaining portions of this ordinance.

47
48 Section 3. To the extent the subject matter of this ordinance is
49 subject to the disapproval jurisdiction of the Houghton Community
50 Council, this ordinance shall become effective within the Houghton
51 Community Municipal Corporation only upon approval by the Houghton
52 Community Council or the failure of said Community Council to
53 disapprove this ordinance within 60 days of the date of the passage of
54 this ordinance.

55
56 Section 4. Except as provided in Section 3, this ordinance shall
57 be in full force and effect 14 days after final approval and adoption by
58 the Washington State Department of Ecology, which will be more than
59 five days from and after its passage by the City Council and publication
60 pursuant to Kirkland Municipal Code 1.08.017, in the summary form
61 attached to the original of this ordinance and by this reference approved
62 by the City Council as required by law.

63
64 Section 5. A complete copy of this ordinance shall be certified
65 by the City Clerk, who shall then forward the certified copy to the King
66 County Department of Assessments.

67
68 Passed by majority vote of the Kirkland City Council in open
69 meeting this ___ day of _____, 2019.

70
71 Signed in authentication thereof this ___ day of _____,
72 2019.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

Chapter 83 – SHORELINE MANAGEMENT¹**Sections:**

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- 83.20 Applicability
- 83.30 Purpose and Intent
- 83.40 Relationship to Other Codes and Ordinances
- 83.50 Interpretation
- 83.60 Liberal Construction
- 83.70 Severability

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- 83.80 Definitions
 - Shoreline Environment Designations and Statewide Significance
- 83.90 Shorelines Jurisdiction and Official Shoreline Map
- 83.100 Natural
- 83.110 Urban Conservancy
- 83.120 Residential – L
- 83.130 Residential – M/H
- 83.140 Urban Mixed
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- 83.170 Shoreline Environments, Permitted and Prohibited Uses and Activities Chart

Use Specific Regulations

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83.520	<u>Critical Areas:</u> Geologically Hazardous Areas
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Authority and Purpose

83.10 Authority

This chapter is adopted as part of the Shoreline Master Program for the City. It is adopted under the authority of Chapter 90.58 RCW and Chapter 173-26 WAC.

(Ord. 4251 § 3, 2010)

83.20 Applicability

1. The requirements of this chapter apply to uses, activities and development within shorelines jurisdiction.
2. Designation – The waters of Lake Washington and shorelands associated with Lake Washington are designated as shorelines of statewide significance.
3. Shorelines Jurisdiction
 - a. The provisions of this chapter shall apply to all shorelines of the state, all shorelines of statewide significance, and shorelands.
 - b. Lake Washington, its underlying land, associated wetlands, and those lands extending landward 200 feet from its OHWM are within shorelines jurisdiction.
 - c. Shorelines jurisdiction does not include buffer areas for wetlands or streams that occur within shorelines jurisdiction, except those buffers contained within lands extending landward 200 feet from the OHWM of Lake Washington.

(Ord. 4251 § 3, 2010)

83.30 Purpose and Intent

It is the intent of the Kirkland Shoreline Master Program (SMP) to manage the use and development of the shorelines of Kirkland, giving preference to water-dependent and water-related uses, and encouraging shoreline

development and uses to avoid, minimize and mitigate impacts. In addition, the SMP, consisting of this chapter, the Shoreline Area chapter of the Comprehensive Plan and the Restoration Plan, has the following purposes:

1. Enable current and future generations to enjoy an attractive, healthy and safe waterfront.
2. Protect the quality of water and shoreline natural resources to preserve fish and wildlife and their habitats.
3. Protect the City's investments as well as those of property owners along and near the shoreline.
4. Efficiently achieve the SMP mandates of the state.
5. In interpreting the provisions of this chapter, preference shall be given in the following order to uses that:
 - a. Recognize and protect the statewide interest over local interest;
 - b. Preserve existing natural areas along the shoreline;
 - c. Result in long-term over short-term benefit;
 - d. Protect the resources and ecology of the shoreline;
 - e. Increase public access to publicly owned areas of the shorelines;
 - f. Increase recreational opportunities for the public in the shoreline; and
 - g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

(Ord. 4251 § 3, 2010)

83.40 Relationship to Other Codes and Ordinances

1. The shoreline regulations contained in this chapter shall apply as an overlay and in addition to zoning, land use regulations, development regulations, and other regulations established by the City.
2. In the event of any conflict between these regulations and any other regulations of the City, the regulations that provide greater protection of the shoreline natural environment and aquatic habitat shall prevail.
3. Shoreline Master Program policies, found in the Shoreline Area chapter of the City's Comprehensive Plan, establish intent for the shoreline regulations.

(Ord. 4251 § 3, 2010)

83.50 Interpretation

1. General – The Planning Director may issue interpretations of any provisions of this chapter as necessary to administer the Shoreline Master Program policies and regulations. The Director shall base his/her interpretations on:
 - a. The defined or common meaning of the words of the provision; and
 - b. The general purpose of the provision as expressed in the provision; and
 - c. The logical or likely meaning of the provision viewed in relation to the Washington State Shoreline Management Act (the Act), including the purpose and intent as expressed in Chapter 90.58 RCW and the applicable guidelines as contained in Chapter 173-26 WAC, and the shoreline chapter of the Comprehensive Plan.

Any formal written interpretations of shoreline policies or regulations shall be submitted to the Department of Ecology for review.

2. Effect – An interpretation of this chapter will be enforced as if it is part of this code.

3. Availability – All interpretations of this chapter, filed sequentially, are available for public inspection and copying in the Planning and Building Department during regular business hours. The Planning Official shall also make appropriate references in this code to these interpretations.

(Ord. 4491 § 3, 2015; Ord. 4251 § 3, 2010)

83.60 Liberal Construction

As provided for in RCW 90.58.900, the Shoreline Management Act is exempted from the rule of strict construction; the Act and this chapter shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this chapter were enacted and adopted, respectively.

(Ord. 4251 § 3, 2010)

83.70 Severability

1. The standards, procedures, and requirements of this chapter are the minimum necessary to promote the health, safety, and welfare of the residents of Kirkland. The City is free to adopt more rigorous or different standards, procedures, and requirements whenever this becomes necessary.
2. The Act and this chapter adopted pursuant thereto comprise the basic state and City law regulating use of shorelines. In the event provisions of this chapter conflict with other applicable City policies or regulations, the more restrictive shall prevail. Should any section or provision of this chapter be declared invalid, such decision shall not affect the validity of this chapter as a whole.

(Ord. 4251 § 3, 2010)

Definitions

83.80 Definitions

For the purposes of this chapter the following terms shall have the meaning ascribed to them below. Terms not defined in this section shall be defined as set forth in Chapter 5 KZC. Where definitions in this chapter conflict with definitions elsewhere in the KMC or KZC, the definitions provided in this section shall control. In addition, all the definitions in RCW 90.58.030, WAC 173-26-020, and WAC 173-27-030 shall be deemed definitions in this chapter.

1. Act – The Washington State Shoreline Management Act, Chapter 90.58 RCW.
2. Agriculture – Agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities; provided, that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.
3. Aquaculture – The cultivation of fish, shellfish, and/or other aquatic animals or plants, including the incidental preparation of these products for human use.
4. Aquatic – Those areas waterward of the OHWM.
5. Appurtenance – For the purpose of an exemption of a single-family residence, also referred to as a detached dwelling unit on one (1) lot, and its associated appurtenances from a substantial development permit, an appurtenance includes those listed under WAC 173-27-040 and tool sheds, greenhouses, swimming pools, spas, accessory dwelling units and other accessory structures common to a single-family residence located landward of the OHWM and the perimeter of a wetland.

~~6. Accessory Dwelling Unit – See Chapter 5 KZC.~~

7. Average Parcel Depth – The average of the distance from the OHWM to edge of the public right-of-way or vehicular access easement, whichever provides direct access to the existing or proposed primary structure on the subject property, as measured along the side property lines or the extension of those lines where the water frontage of the subject property ends, the center of the OHWM of the subject property and the quarter points of the OHWM of the subject property. See Plate 19. For those circumstances where a parcel or a portion of a parcel does not abut a public right-of-way or vehicular easement road, the average parcel depth shall be measured from the OHWM to the edge of the property line opposite of and generally parallel to the OHWM using the same method as described above. At the northern terminus of the 5th Avenue West vehicular access easement, the average parcel depth shall be measured from the OHWM to the west side of the public pedestrian access easement providing access to Waverly Beach Park.
8. Average Parcel Width – The average of the distance between the two (2) side property lines perpendicular to the OHWM as measured along the OHWM and along the property line opposite the OHWM, or measured along the two (2) property lines generally parallel to the OHWM of a parcel that does not abut Lake Washington.
9. Bioengineering – Project designs or construction methods that use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank that is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.
10. Boat – Any contrivance used or capable of being used as a means of transportation on water, except for cribs or piles, shinglebolts, booms or logs, rafts of logs, and rafts of lumber.
11. Boat House – An overwater structure designed for the storage of boats, but not including boat lift canopies.
12. Boat Launch – Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.
13. Boat Lift – Lifts for motorized boats, kayaks, canoes and jet skis. Includes floating lifts that are designed to not contact the substrate of the lake; ground-based lifts that are designed to be in contact with or supported by the substrate of the lake; and suspended lifts that are designed to be affixed to the existing overwater structure with no parts contacting the substrate.
14. Boating Facilities – Facilities providing boat moorage space, fuel, or other commercial services. As used in this chapter, “boating facilities” refers to the following use listings: piers, docks, moorage buoys, boat lifts and canopies serving attached, stacked and detached dwelling units and marinas and moorage facilities associated with commercial uses.
15. Breakwater – Protective structures that are normally built offshore to provide protection from wave action.
16. Buffer – The area immediately adjacent to wetlands and streams that protects these sensitive areas and provides essential habitat elements for fish and/or wildlife.
17. Buffer Setback – A setback distance of 10 feet from a designated or modified wetland or stream buffer within which no buildings or other structures may be constructed, except as provided in KZC 83.500 and 83.510. The buffer setback serves to protect the wetland or stream buffer during development activities, use, and routine maintenance occurring adjacent to these resources.
18. Bulkhead – A vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.
19. Canopy – A cover installed as a component of a boat lift.
20. Channel Migration Zone – The area along a river or other watercourse within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river or other watercourse and its surroundings.

~~21. Class A Streams—Streams that are used by salmonids. Class A streams generally correlate with Type F streams as defined in WAC 222-16-030.~~

~~22. Class B Streams—Perennial streams (during years of normal precipitation) that are not used by salmonids. Class B streams generally correlate with Type F streams (if used by nonsalmonids or they contain fish habitat) or Type Np streams (if they are perennial and do not contain fish habitat) as defined in WAC 222-16-030.~~

~~23. Class C Streams—Seasonal or ephemeral streams (during years of normal precipitation) not used by salmonids. Class C streams generally correlate with Type F streams (if used by nonsalmonid fish or they contain fish habitat) or Type Ns streams (if they are seasonal and do not contain fish habitat) as defined in WAC 222-16-030.~~

24. Commercial Use – Includes retail, office services, entertainment, and recreation ~~and/or light industrial~~ uses, depending on the location. Retail uses are those that provide goods and/or services directly to the consumer, including service uses not usually allowed within an office use.

25. Concession Stand – A permanent or semi-permanent structure for the sale and consumption of food and beverages, and water-related products, such as sunscreen, sunglasses, and other similar products. A concession stand may include outdoor seating areas. Indoor seating and associated circulation areas shall not exceed more than 10 percent of the gross floor area of the use, and it must be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded.

26. Conditional Uses – A use, development, or substantial development that is classified as a conditional use in KZC 83.170 or that is not classified within this chapter. Those activities identified as conditional uses or not classified in this chapter must be treated according to the review criteria established in WAC 173-27-160.

~~27. Convalescent Center—See Chapter 5 KZC.~~

28. Critical Areas – Critical areas include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas (streams); (d) frequently flooded areas; and (e) geologically hazardous areas. Kirkland does not contain any critical aquifer recharge areas. Critical areas may also be referred to as sensitive areas.

29. Development – A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any state of water level. “Development” does not include dismantling or removing structures if there is no other associated development or re-development.

30. Dock – A structure that floats on the surface of the water, without piling supports, but that is attached to land. Typically used for boat moorage, swimming, public access, and other activities that require access to deep water.

~~31. Drainage Basin—A specific area of land drained by a particular Kirkland watercourse and its tributaries.~~

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

33. Dry Land Boat Storage – A commercial service providing storage of boats and related equipment on the upland portion of a property.

~~34. Dwelling Unit, Attached—See Chapter 5 KZC.~~

~~35. Dwelling Unit, Detached—See Chapter 5 KZC.~~

~~36. Dwelling Unit, Stacked—See Chapter 5 KZC.~~

37. Ecological Functions – The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments constituting the shoreline’s natural ecosystem.

38. Ecological Restoration – See “Restore.”

39. Ecologically Intact Shoreline – Those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses.

40. Ecosystem-Wide Processes – The suite of naturally occurring physical and geological processes of erosion, transport, and deposition, and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat that are present and the associated ecological functions.

41. Ell – A terminal pier section oriented perpendicular to the pier walkway.

42. Feasible – An action, such as a development project, mitigation, or preservation requirement that meets all of the following conditions:

- a. Can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests that have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- b. Provides a reasonable likelihood of achieving its intended purpose; and
- c. Does not physically preclude achieving the project’s primary intended legal use.

The burden of proving infeasibility is on the applicant in cases where these guidelines require certain actions. In determining an action’s infeasibility, the City may weigh the action’s relative public costs and public benefits, considered in the short- and long-term time frames.

43. Ferry Terminal, Passenger-Only – A docking facility used in the transport of passengers across a body of water. A ferry terminal may include accessory parking facilities, ticketing booths, and other accessory uses or structures necessary for its operation. A passenger-only ferry terminal does not include provisions for the ferrying of vehicles.

44. Fill – The addition of soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the ground elevation or creates dry land.

45. Finger Pier – A narrow pier section projecting from the pier walkway, typically perpendicular to the walkway and located landward of an ell in order to form the nearshore side of a boatslip.

~~45.a Fish and Wildlife Habitat Conservation Area – Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. These areas include:~~
~~(a) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;~~
~~(b) Areas with which species of local importance have a primary association;~~
~~(c) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;~~
~~(d) Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington.~~

46. Float – A structure that floats on the surface of the water that is not attached to the shore, but that may be anchored to submerged land. Floats are typically used for swimming, diving and similar recreational activities.

47. Float Plane Landing and Moorage Facility – A place where commercially operated water-based passenger aircraft arrive and depart. May include accessory facilities, such as waiting rooms, ticketing booths and similar facilities. May be used for private or public purposes.

48. Floodplain – Synonymous with the 100-year floodplain and means the land susceptible to inundation with a one (1) percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulations maps or a reasonable method that meets the objectives of the Shoreline Management Act.

49. Forest Practices – Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber.

~~50. Frequently Flooded Areas – All areas shown on the Kirkland Sensitive Areas Maps as being within a 100-year floodplain and all areas regulated by Chapter 21.56 KMC.~~

51. Gabions – Structures composed of masses of rocks or rubble held tightly together by wire mesh (typically) so as to form upright blocks or walls. Often constructed as a series of overlapping blocks or walls. Used primarily in retaining earth, steep slopes or embankments, to retard erosion or wave action, or as foundations for breakwaters or jetties.

~~52. Geologically Hazardous Areas – Landslide, erosion and seismic hazardous areas as defined in KZC 85.13 and in WAC 365 190 080(4).~~

53. Geotechnical Analysis – See “Geotechnical Report.”

54. Geotechnical Report – A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts on the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers (or geologists) who have professional expertise about the regional and local shoreline geology and processes.

55. Grading – The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

56. Hard Structural Shoreline Stabilization – Shore erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces that are located at or waterward of ordinary high water, as well as those structures located on average within five (5) feet landward of OHWM. These include bulkheads, rip-rap, groins, retaining walls and similar structures.

57. Helipad – A takeoff and landing area for helicopters.

58. Houseboat – A structure designed and operated substantially as a permanently based overwater residence. Houseboats are not vessels and lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi-permanent anchorage/moorage facilities.

~~59. Impervious Surface – A hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development; and/or a hard surface area that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces that similarly impede the natural infiltration of surface and storm water runoff. Open,~~

~~uncovered flow control or water quality treatment facilities shall not be considered impervious surfaces. Impervious surfaces do not include pervious surfaces as defined in this chapter.~~

60. Industrial Uses – Uses such as manufacturing, assembly, processing, wholesaling, warehousing, distribution of products and high technology.
61. In-Stream Structure – A structure placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.
62. Joint-Use – Piers and floats that are constructed by more than one (1) contiguous waterfront property owner or by a homeowner’s association or similar group.
63. Land Division – The division or redivision of land into lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.
64. Land Surface Modification – The clearing or removal of shrubs, groundcover and other vegetation, excluding trees, and all grading, excavation and filling of materials.
65. Large Woody Debris – Trunks or branches of trees that have fallen in or been placed in a water body and serve the purposes of stabilization or habitat for fish and aquatic insects.
- ~~66. Low Impact Development – Low impact development (LID) is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water that allows water to soak into the ground closer to its source. The development shall meet one (1) or more of the following objectives:~~
- ~~a. Preservation of natural hydrology.~~
 - ~~b. Reduction of impervious surfaces.~~
 - ~~c. Treatment of stormwater in numerous small, decentralized structures.~~
 - ~~d. Use of natural topography for drainage ways and storage areas.~~
 - ~~e. Preservation of portions of the site in undisturbed, natural conditions.~~
 - ~~f. Reduction of the use of piped systems. Whenever feasible, site design should use multifunctional open drainage systems such as vegetated swales or filter strips that also help to fulfill vegetation and open space requirements.~~
 - ~~g. Use of environmentally sensitive site design and green building construction that reduces runoff from structures, such as green roofs.~~
67. Marina – A private or public facility providing the purchase and/or lease of a slip for storing, berthing and securing motorized boats or watercraft, including both long-term and transient moorage. Marinas may include accessory facilities for providing incidental services to users of the marina, such as waste collection, boat sales or rental activities, and retail establishments providing fuel service, repair or service of boats.
68. May – The action is acceptable, provided it conforms to the provisions of the Shoreline Management Act, with the decision-maker having or using the ability to act or decide according to their own discretion or judgment.
- ~~69. Minor Improvements – Walkways, pedestrian bridges, benches, and similar features, as determined by the Planning Official, pursuant to KZC 83.500(4)(f) and 83.510(4)(f).~~
70. Moorage Buoy – A floating object, sometimes carrying a signal or signals, anchored to provide a mooring place away from the shore.

71. Moorage Facility – A pier, dock, marina, buoy or other structure providing docking or moorage space for boats or float planes, where permitted.
72. Moorage Pile – A piling to which a boat is tied up to prevent it from swinging with changes of wind or other similar functions.
73. Must – A mandate; the action is required.
74. Neighborhood-Oriented Retail Establishment – Small scale retail and service uses that provide primarily convenience retail sales and service to the surrounding residential neighborhood. The following is a nonexclusive list of neighborhood-oriented retail uses: small grocery store, drug store, hair salon, coffee shop, dry cleaner or similar retail or service uses.
75. Nonconforming Use ~~or Development~~ – A shoreline use ~~or development~~ that was lawfully ~~constructed or~~ established prior to the effective date of the Act or the applicable master program, or amendments thereto, but that does not conform to present regulations or policies of the program.
- 75a. Nonconforming development or nonconforming structure -- an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.
- 75b. Nonconforming use -- an existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.
- 75c. Nonconforming lot -- a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.
76. Nonstructural Flood Hazard Reduction Measures – Improvements, actions or provisions that reduce flood hazard by nonstructural means, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures and surface water management programs.
77. Non-Water-Oriented Use – Uses that are not water-dependent, water-related, or water-enjoyment.
- ~~78. Ordinary High Water (OHW) Line – The OHW line is at an elevation of 21.8 feet for Lake Washington.~~
79. Ordinary High Water Mark (OHWM) – The mark that will be found on all lakes and streams by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology; provided, that in any area where the OHWM cannot be found, the OHWM adjoining fresh water shall be the line of mean high water, or as amended by the state. For Lake Washington, the OHWM corresponds with a lake elevation of 18.5 feet, based on the NAVD 88 datum.
80. Outfall – A structure used for the discharge of a stormwater or sewer system into a receiving water.
- ~~81. Pervious – As opposed to impervious surfaces, these are surfaces that allow water to pass through at rates similar to pre-developed conditions. Pervious surfaces include, but are not limited to: pervious asphalt, pervious concrete, pervious gravel, grass or pervious pavers.~~
82. Permitted Uses – Uses that are allowed within the applicable shoreline environment, provided that they must meet the policies, use requirements, and regulations of this chapter and any other applicable regulations of the City or state.

83. Pier – A structure that projects over and is raised above the water but is attached to land, and that is used for boat moorage, swimming, fishing, public access, float plane moorage, or similar activities requiring access to deep water.

~~83.a. Pier Bumpers – Vertical slats covered with rubber, plastic or other synthetic materials that extend from the pier deck to the water, generally permanent in nature, that are used to prevent a boat from drifting under a pier and located where a boat is permanently moored.~~

84. Pier Piling – The structural supports for piers, usually below the pier decking and ~~anchored-imbedded into the lake bed-in the water.~~

85. Preserve – The protection of existing ecological shoreline processes or functions.

~~86. Primary Basins – The primary basins shown on the Kirkland Sensitive Areas Map.~~

87. Primary Structure – A structure housing the main or principal use of the lot on which the structure is situated, including a detached garage associated with the primary structure. This term shall not include decks, patios or similar improvements, and accessory uses, structures or activities as defined in Chapter 5 KZC.

88. Priority Habitat – A habitat type with unique or significant value to one (1) or more species as defined in WAC 173-26-020.

89. Priority Species – Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels based on the criteria in WAC 173-26-020.

90. Public Access – The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline.

91. Public Access Facility – A water-oriented structure, such as a trail, pier, pedestrian bridge, boat launch, viewing platform, or fishing pier that provides access for the public to or along the shoreline.

92. Public Access Pier or Boardwalk – An elevated structure that is constructed waterward of the OHWM and intended for public use.

93. Public Pedestrian Walkway – A portion of private property subject to an easement giving the public the right to stand on or traverse this portion of the property.

94. Public Use Area – A portion of private property that is dedicated to public use and that contains one (1) or more of the following elements: benches, tables, lawns, gardens, piers, exercise or play equipment or similar improvements or features. These elements are to provide the public with recreational opportunities in addition to the right to traverse or stand in this area.

~~95. Qualified Professional – An individual with relevant education and training, as determined by the Planning Official, and with at least three (3) years' experience in biological fields such as botany, fisheries, wildlife, soils, ecology, and similar areas of specialization, and including a professional wetland scientist.~~

96. Rain Garden – Rain gardens and bioretention areas are vegetation features adapted to provide on-site infiltration and treatment of stormwater runoff using soils and vegetation. They are commonly located within small pockets of residential land where surface runoff is directed into shallow, landscaped depressions; or in landscaped areas around buildings; or, in more urbanized settings, to parking lot islands and green street applications.

~~96.a Normal Maintenance or Repair - "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable time period after decay or partial destruction, except where repair causes a substantial adverse effect to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development including but not limited to its size, shape, configuration, location and external appearance and the~~

replacement does not cause substantial adverse effects to shoreline resources or environment. Examples of maintenance and repair include painting; repair of stairs, roof, siding, decking, and structural supports. Examples of replacement include replacement of siding, windows, or roofing; changing doors to windows and windows to doors; replacement of failing shoreline structures.

97. Recreational Use – Commercial and public facilities designed and used to provide recreational opportunities to the public.

98. Residential Use – Developments in which people sleep and prepare food, other than developments used for transient occupancy. As used in this chapter, residential development includes single-family development (known as detached dwelling units) and multifamily development (known as detached, attached or stacked dwelling units) and the creation of new residential lots through land division.

99. Restore – The re-establishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

100. Restoration – See “Restore.”

101. Revetment – A shoreline protective structure constructed on a slope and used to prevent erosion.

102. Riparian Area – A transition area between the aquatic ecosystem and the adjacent upland area that supports a number of shoreline ecological functions and processes, including bank stability, the recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, habitat and other riparian features that are important to both riparian forest and aquatic system conditions.

103. Salmonid – A member of the fish family salmonidae, including chinook, coho, chum, sockeye, and pink salmon; rainbow, steelhead, and cutthroat trout; brown trout; brook and Dolly Varden char, kokanee, and white fish.

~~104. Secondary Basins – The secondary basins depicted on the Kirkland Sensitive Areas Map.~~

105. Shall – Means a mandate; the action must be taken.

106. Shorelands – Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters that are subject to the provisions of the Shoreline Management Act; the same to be designated as to location by the Department of Ecology.

107. Shoreland Areas – See “Shorelands.”

108. Shoreline Functions – See “Ecological Functions.”

109. Shoreline Habitat and Natural Systems Enhancement Projects – Activities conducted for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. The following is a nonexclusive list of shoreline habitat and natural systems enhancement projects: modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging and filling; provided, that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

110. Shoreline Modification – 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, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

111. Shoreline Setback – The distance measured in feet that a structure or improvement must be located from the OHWM.

112. Shoreline Stabilization – Means for protecting shoreline upland areas and shoreline uses from the effects of shoreline wave action, flooding or erosion. Shoreline stabilization includes structural and nonstructural methods, riprap, bulkheads, gabions, jetties, dikes and levees, flood control weirs, and bioengineered walls or embankments.

113. Shorelines – All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them: except (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

114. Shorelines of Statewide Significance – Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of 1,000 acres or more measured at the OHWM and those natural rivers or segments thereof where the mean annual flow is measured at 1,000 cubic feet per second or more. Definition is limited to freshwater areas in Western Washington.

115. Should – Means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and the Shoreline Rules, against taking the action.

116. Sign, Interpretive – A permanent sign without commercial message, located on a publicly accessible site, that provides public educational and interpretive information related to the site on which the sign is located, such as information on natural processes, habitat restoration programs, or cultural history, or that is associated with an adopt-a-stream, adopt-a-park or similar agency-sponsored program.

~~117. Significant Tree – See Chapter 5 KZC.~~

118. Significant Vegetation Removal – The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant 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.

119. Skirting – Vertical or horizontal boards along the edge of a pier extending downward.

120. Soft Structural Shoreline Stabilization Measures – Shore erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a nonlinear, sloping arrangement.

~~121. Streams – Areas where surface waters produce a defined channel or bed that demonstrates clear evidence of the passage of water, including but not limited to bedrock channels, gravel beds, sand and silt beds, and defined channel swales. The channel or bed need not contain water year round. Streams do not include irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or convey a naturally occurring stream that has been diverted into the artificial channel.~~

122. Structural Flood Hazard Reduction Measures – Improvements or activities that reduce flood hazard by structural means, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

123. Structural Shoreline Stabilization – Means for protecting shoreline upland areas and shoreline uses from the effects of shoreline wave action, flooding or erosion that incorporate structural methods, including both hard structural shoreline stabilization methods and soft structural shoreline stabilization measures.

124. Substantial Development – As defined in the Washington State Shoreline Management Act (SMA) found in Chapter 90.58 RCW, and WAC 173-27-030 and 173-27-040.

125. Transportation Facilities – Facilities that include street pavement, curb and cutter, sidewalk and landscape strip as regulated under Chapter 110 KZC.

126. Tour Boat Facility – A moorage pier designed for commercial tour boat usage.
127. Tree – A woody plant with one (1) main trunk at a minimum height of 12 feet measured from the existing ground at maturity, having a distinct head in most cases. The City’s Urban Forester shall have the authority to determine whether any specific woody plant shall be considered a tree or a shrub.
- ~~128. Upland – Generally described as the dry land area above and landward of the OHWM, but not including wetlands.~~
129. Utilities – Services, facilities and infrastructure that produce, transmit, carry, store, process or dispose of electric power, gas, water, sewage, communications, oil, storm water, and similar services and facilities.
130. Utility Production and Processing Facilities – Facilities for the making or treatment of a utility, such as power plants and sewage treatment plants ~~or parts of those facilities.~~
131. Utility Transmission Facilities – Infrastructure and facilities for the conveyance of services, such as ~~power lines~~ electrical transmission lines operating at 115kv or higher, cables, ~~and natural gas~~ pipelines operating at 60 psi or greater, and sewer pump lift stations.
132. View Corridor – An open area of the subject property that provides views unobstructed by structures and across the subject property from the adjacent right-of-way to Lake Washington.
133. Water-Dependent Use – A use or portion of a use that cannot exist in a location that is not adjacent to the water and that is dependent on the water by reason of the intrinsic nature of its operation.
134. Water-Enjoyment Use – A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and that through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that foster shoreline enjoyment.
135. Water-Oriented Use – A use that is water-dependent, water-related, or water-enjoyment or a combination of such uses.
136. Water Quality – The physical characteristics of water within shorelines jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term “water quantity” refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.
137. Water-Related Use – A use or portion of a use that is not intrinsically dependent on a waterfront location, but whose economic viability is dependent upon 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.
- ~~138. Watershed – A region or area bounded on the periphery by a parting of water and draining to a particular watercourse or body of water.~~
139. Watershed Restoration Plan – A plan, developed or sponsored by the State Department of Fish and Wildlife, the State Department of Ecology, the State Department of Natural Resources, the State Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation,

restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to Chapter 43.21C RCW, the State Environmental Policy Act.

140. Watershed Restoration Project – A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one (1) or more of the following activities:

- a. A project that involves less than 10 miles of streamreach, in which less than 25 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
- b. A project for the restoration of an eroded or unstable streambank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
- c. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state; provided, that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than 200 square feet in floor area and is located above the OHWM of the stream.

141. Water Taxi – A boat used to provide public transport for passengers, with service scheduled with multiple stops or on demand to many locations. A water taxi does not include accessory facilities, such as ticketing booths, and does not include the transport of vehicles.

~~142. Wetlands—Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soils 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, retention and/or detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990 (adoption date of GMA), that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands do include those artificial wetlands intentionally created from nonwetland sites as mitigation for the conversion of wetlands.~~

~~143. Wetland Rating—Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington (Department of Ecology 2004, or as revised). This document contains the definitions, methods and a rating form for determining the categorization of wetlands below:~~

- a.—~~Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions. Category I wetlands include Natural Heritage wetlands, bogs, mature and old growth forested wetlands, and wetlands that score at least 70 points on the rating form.~~
- b.—~~Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands score between 51 and 69 points on the rating form.~~
- c.—~~Category III wetlands have a moderate level of function, scoring between 30 and 50 points on the rating form.~~
- d.—~~Category IV wetlands have the lowest levels of functions (scores less than 30 points on the rating form) and are often heavily disturbed. These are wetlands that can often be replaced, and in some cases improved. However, replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.~~

Shoreline Environment Designations and Statewide Significance

83.90 Shorelines Jurisdiction and Official Shoreline Map

1. Shoreline Map

a. The adopted Shoreline Environment Designations Map is the graphic representation of the City's shorelines that are regulated by this chapter. The map, or set of maps, entitled City of Kirkland Shoreline Environment Designation Map and adopted by ordinance is hereby adopted as part of this code. See Chapter 141 KZC for information regarding amending this map.

b. The adopted shoreline map identifies shoreline environment designations and the extent of shorelines jurisdiction.

1) Extent of Shorelines Jurisdiction – The shorelines jurisdiction as depicted on the adopted Shoreline Environment Designations Map is intended to depict the approximate location and extent of known shorelands. In determining the exact location of shorelines jurisdiction, the criteria contained in RCW 90.58.030(2) shall be used. For Lake Washington, the OHWM corresponds with a lake elevation of 18.5 feet, based on the NAVD 88 datum. The extent of shorelines jurisdiction on any individual lot, parcel or tract is to be determined by a field investigation and a survey and is the sole responsibility of the applicant. The location of the OHWM shall be included in shoreline permit application submittals to determine the extent of shorelines jurisdiction for review and approval by the Planning Official.

2) Interpretation of Shoreline Environment Designations – The following shall be used to interpret the boundary of shoreline environment designations:

a) Following Property Lines – Where a shoreline environment designation boundary is indicated as approximately following a property line, the property line is the shoreline environment designation boundary.

b) Following Streets – Where a shoreline environment designation boundary is indicated as following a street, the midpoint of the street right-of-way is the shoreline environment designation boundary, except as follows:

1) The portion of the public right-of-way known as 98th Avenue NE located within 200 feet of the OHWM is designated wholly as Urban Mixed.

2) Waterfront street ends, where the public right-of-way is designated wholly under one (1) shoreline environment.

c) Wetlands – Where an associated wetland boundary extends beyond the area depicted on the Shoreline Environment Designation Map, the additional wetland area shall be designated as the same shoreline environment as the adjoining wetland area located on the shoreline map.

d) Lakes – The aquatic environment designation boundary extends into Lake Washington to the full limit and territorial extent of the police power, jurisdiction and control of the City of Kirkland.

e) Other Cases – Where a shoreline environment designation boundary is not indicated to follow a property line or street, the boundary line is as follows:

1) The transition of the shoreline environment designation from Urban Conservancy to Urban Mixed at Juanita Beach Park occurs at a point measured 75 feet east of the OHWM of Juanita Creek.

2) The transition of the shoreline environment designation from Urban Conservancy to Urban Residential west of Juanita Beach Park occurs at a point measured 75 feet west of the OHWM of Juanita Creek.

- f) Classification of Vacated Rights-of-Way – Where a right-of-way is vacated, the area comprising the vacated right-of-way will acquire the classification of the property to which it reverts.
- g) Undesignated Properties – Any shoreline areas not mapped and/or designated shall be assigned an Urban Conservancy designation, except wetlands as noted in subsection (1)(b)(2)(c) of this section.

2. Shoreline Environment Designations

- a. KZC 83.100 through 83.150 establish the six (6) shoreline environment designations used in the City of Kirkland and their respective purposes, designation criteria, and management policies. KZC 83.180 through 83.560 then establish the different regulations that apply in these different environmental designations.
- b. The management policies contained in the shoreline chapter of the Comprehensive Plan shall be used to assist in the interpretation of these regulations.

(Ord. 4251 § 3, 2010)

83.100 Natural

1. Purpose – To protect and restore those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. The Natural shoreline environment also protects shoreline areas possessing natural characteristics with scientific and educational interest. These systems require restrictions on the intensities and types of land uses permitted in order to maintain the integrity of the ecological functions and ecosystem-wide processes of the shoreline environment.

2. Designation Criteria – A Natural shoreline environment designation should be assigned to shoreline areas if any of the following characteristics apply:

- a. The shoreline is ecologically intact and, therefore, currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
- b. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
- c. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

(Ord. 4251 § 3, 2010)

83.110 Urban Conservancy

1. Purpose – To protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

2. Designation Criteria – An Urban Conservancy shoreline environment designation should be assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities or urban growth areas if any of the following characteristics apply:

- a. They are suitable for water-related or water-enjoyment uses;
- b. They are open space, floodplain or other sensitive areas that should not be more intensively developed;
- c. They have potential for ecological restoration;
- d. They retain important ecological functions, even though partially developed; or
- e. They have the potential for development that is compatible with ecological restoration.

(Ord. 4251 § 3, 2010)

83.120 Residential – L

1. Purpose – To accommodate low-density residential development and appurtenant structures that are consistent with this chapter.
2. Designation Criteria – A Residential – L shoreline environment designation should be assigned to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, and incorporated municipalities if they are predominantly single-family residential development or are planned and platted for low-density residential development, unless these areas meet the designation criteria for the Natural shoreline environment designation.

(Ord. 4251 § 3, 2010)

83.130 Residential – M/H

1. Purpose – To accommodate medium and high-density residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses, as well as limited water-oriented commercial uses that depend on or benefit from a shoreline location.
2. Designation Criteria – A Residential – M/H shoreline environment designation should be assigned to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, and incorporated municipalities if they are predominantly multifamily residential development or are planned and platted for medium or high-density residential development, unless these properties meet the designation criteria for the Natural or Urban Conservancy shoreline environment designation.

(Ord. 4251 § 3, 2010)

83.140 Urban Mixed

1. Purpose – To provide for high-intensity land uses, including residential, commercial, recreational, transportation and mixed-use developments. The purpose of this environment is to ensure active use of shoreline areas that are presently urbanized or planned for intense urbanization, while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.
2. Designation Criteria – An Urban Mixed shoreline environment designation should be assigned to shoreline areas within incorporated municipalities and urban growth areas if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

(Ord. 4251 § 3, 2010)

83.150 Aquatic

1. Purpose – To protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.
2. Designation Criteria – An Aquatic shoreline environment designation should be assigned to lands waterward of the OHWM.

(Ord. 4251 § 3, 2010)

Uses and Activities in the Shoreline Environment**83.160 User Guide**

1. Explanation of Uses Table – The table contained in KZC 83.170 identifies uses and activities and defines whether those uses are prohibited, permitted by application for exemption or shoreline substantial development permit, or permitted by a shoreline conditional use permit. If a use is not specifically listed, then it may be considered through a shoreline conditional use permit (see Chapter 141 KZC). The following symbols apply:
 - a. “X” means that the use or activity is prohibited in the identified Shoreline Environment. Shoreline uses, activities, or conditions listed as prohibited shall not be authorized through a variance, conditional use permit, or any other permit or approval.

- b. “SD” means that the use or activity may be permitted by approval of the Planning Official through a letter of shoreline exemption (see Chapter 141 KZC) or through a shoreline substantial development permit (see Chapter 141 KZC).
 - c. “CU” means that the use or activity may be permitted by approval of the Planning Official and Department of Ecology through a shoreline conditional use permit (see Chapter 141 KZC). Uses that are not specifically prohibited under KZC 83.170 may be authorized through a shoreline conditional use permit. A conditional use permit must also meet criteria for a substantial development permit.
 - d. Shoreline variances (see Chapter 141 KZC) are intended only to grant relief from specific bulk, dimensional or performance standards in this chapter, not to authorize shoreline uses and activities. They are therefore not included in KZC 83.170.
2. See KZC 83.370 for federal and state approval.
 3. If a use is permitted under KZC 83.170 but is not permitted under Chapters 5 through ~~6056~~ KZC for those zones within the shorelines jurisdiction, then the more restrictive use standard shall apply.

(Ord. 4251 § 3, 2010)

83.170 Shoreline Environments, Permitted and Prohibited Uses and Activities Chart

The chart is coded according to the following legend.			Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed	Aquatic
SD	=	Substantial Development ¹						
CU	=	Conditional Use						
X	=	Prohibited; the use is not eligible for a Variance or Conditional Use Permit						
Footnotes listed at end of KZC 83.170 (end of chart)								
SHORELINE USE								
Resource Land Uses								
Agriculture			X	X	X	X	X	X
Aquaculture			X	X	X	X	X	X
Forest practices			X	X	X	X	X	X
Mining			X	X	X	X	X	X
Commercial Uses								
Water-dependent uses								
Float plane landing and mooring facilities ²			X	X	X	X	CU	See adjacent upland environments
Any water-dependent retail establishment other than those specifically listed in this chart, selling goods or providing services			X	SD ³	X	X	SD	See adjacent upland environments
Water-related, water-enjoyment commercial uses								
Any water-oriented retail establishment other than those specifically listed in this chart, selling goods or providing services			X	SD ³	X	X	SD	X
Retail establishment providing new or used boat sales or rental			X	SD ³	X	CU ^{4,6}	SD ⁵	See adjacent upland environments
Retail establishment providing gas and oil sale for boats			X	X	X	CU ^{4,6}	CU ⁶	See adjacent upland environments
Retail establishment providing boat and motor repair and service			X	X	X	CU ^{4,6}	CU ⁶	X

The chart is coded according to the following legend.			Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed	Aquatic
SD	=	Substantial Development ¹						
CU	=	Conditional Use						
X	=	Prohibited; the use is not eligible for a Variance or Conditional Use Permit						
Footnotes listed at end of KZC 83.170 (end of chart)								
Restaurant or tavern ⁷			X	X	X	CU ⁴	SD	X
Concession stand			X	SD ³	X	X	SD ³	X
Entertainment or cultural facility			X	CU ⁸	X	X	SD	X
Hotel or motel			X	X	X	CU/X	SD	X
Nonwater-oriented uses								
Any retail establishment other than those specifically listed in this chart, selling goods, or providing services including banking and related services			X	X	X	X	SD ¹⁰	X
Office uses			X	X	X	X	SD ¹⁰	X
Neighborhood-oriented retail establishment			X	X	X	CU ¹¹	SD ¹⁰	X
Private lodge or club			X	X	X	X	SD ¹⁰	X
Vehicle service station			X	X	X	X	X	X
Automotive service center			X	X	X	X	X	X
Dry land boat storage			X	X	X	X	X	X
Industrial Uses								
Water-dependent uses			X	X	X	X	X	X
Water-related uses			X	X	X	X	X	X
Non-water-oriented uses			X	X	X	X	X	X
Recreational Uses								

The chart is coded according to the following legend.			Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed	Aquatic
SD	=	Substantial Development ¹						
CU	=	Conditional Use						
X	=	Prohibited; the use is not eligible for a Variance or Conditional Use Permit						
Footnotes listed at end of KZC 83.170 (end of chart)								
Water-dependent uses								
Marina ¹²	X	CU	X	SD	SD			See adjacent upland environments
Piers, docks, boat lifts and canopies serving detached dwelling unit ¹²	X	X	SD	SD	SD ¹³			
Piers, docks, boat lifts and canopies serving detached, attached or stacked dwelling units ¹²	X	X	X	SD	SD			
Float	X	SD ³	X	X	SD ³			
Tour boat facility	X	X	X	X	SD ¹⁴			
Moorage buoy ¹²	X	SD	SD	SD	SD			
Public access pier or boardwalk	CU	SD	SD	SD	SD			
Boat launch/ new (for motorized boats) or for expansion of existing boat launch for motorized boats.	X	X	X	X	CU			
Boat launch (for nonmotorized boats)	SD	SD	SD	SD	SD			
Boat houses or other covered moorage not specifically listed	X	X	X	X	X			
Swimming beach and other public recreational use	CU	SD	SD	SD	SD			
Any water-dependent recreational development other than those specifically listed in this chart	CU	SD	SD	SD	SD			
Water-related, water-enjoyment uses								
Any water-oriented recreational development other than those specifically listed in this chart	X	CU	CU	CU	SD		X	
Other public park improvements ¹⁵	CU	SD	SD	SD	SD		X	

The chart is coded according to the following legend.								
SD	=	Substantial Development ¹	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed	Aquatic
CU	=	Conditional Use						
X	=	Prohibited; the use is not eligible for a Variance or Conditional Use Permit						
Footnotes listed at end of KZC 83.170 (end of chart)								
Public access facility			SD ¹⁶	SD	SD	SD	SD	See adjacent upland environments
Non-water-oriented uses								
Nonwater-oriented recreational development			X	X	X	X	SD ¹⁰	X
Residential Uses								
Detached dwelling unit			CU	CU	SD	SD	SD ¹³	X
Accessory dwelling unit ¹⁷			X	X	SD	SD	SD ¹³	X
Detached, attached or stacked dwelling units (multifamily units on one (1) lot)			X	X	X	SD	SD	X
Houseboats			X	X	X	X	X	X
Assisted living facility ¹⁸			X	X	X	CU	SD	X
Convalescent center or nursing home			X	X	X	CU ¹⁹	SD ²⁰	X
Land division			SD ²¹	SD ²¹	SD	SD	SD	X
Institutional Uses								
Government facility			X	SD	SD	SD	SD	X
Community facility			X	X	X	X	SD	X
Church			X	X	X	CU ¹⁹	SD ²⁰	X
School or day-care center			X	X	X	CU ¹⁹	SD ¹⁰	X
Mini-school or mini-day-care center			X	X	X	SD ¹⁹	SD ¹⁰	X

The chart is coded according to the following legend.								
SD	=	Substantial Development ¹	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed	Aquatic
CU	=	Conditional Use						
X	=	Prohibited; the use is not eligible for a Variance or Conditional Use Permit						
Footnotes listed at end of KZC 83.170 (end of chart)								
Transportation								
Water-dependent								
Bridges			CU	CU	SD	SD	SD	See adjacent upland environments
Passenger-only ferry terminal			X	X	X	X	CU	
Water taxi			X	SD ²²	SD ²²	SD ²²	SD ²²	
Non-water-oriented								
Arterials, collectors, and neighborhood access streets			CU	SD ²³ /CU	SD	SD	SD	X
Helipad			X	X	X	X	X	X
Utilities								
Utility production and processing facilities			X	CU ²⁴	CU ²⁴	CU ²⁴	CU ²⁴	X
Utility transmission facilities			CU ²⁴	SD ²⁴	SD ²⁴	SD ²⁴	SD ²⁴	CU ²⁴
Personal wireless service facilities ²⁵			X	SD	SD	SD	SD	X
Radio towers			X	X	X	X	X	X
Shoreline Modifications								
Breakwaters/jetties/rock weirs/groins			X	X	X	SD ²⁶ /CU	SD ²⁶ /CU	See adjacent upland environments
Dredging and dredge materials disposal			SD ²⁶ /CU	SD ²⁶ /CU	SD ²⁶ /CU	SD ²⁶ /CU	SD ²⁶ /CU	
Fill waterward of the OHWM			SD ²⁶ /CU	SD ²⁶ /CU	SD ²⁶ /CU	SD ²⁶ /CU	SD ²⁶ /CU	
Land surface modification			SD ²⁶ /CU	SD	SD	SD	SD	

The chart is coded according to the following legend.			Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed	Aquatic
SD	=	Substantial Development ¹						
CU	=	Conditional Use						
X	=	Prohibited; the use is not eligible for a Variance or Conditional Use Permit						
Footnotes listed at end of KZC 83.170 (end of chart)								
Shoreline habitat and natural systems enhancement projects			SD	SD	SD	SD	SD	
Hard structural shoreline stabilization			X	CU	SD	SD	SD	
Soft structural shoreline stabilization measures			X	SD	SD	SD	SD	

¹ A development activity may also be exempt from the requirement to obtain a substantial development permit. See Chapter 141 KZC addressing exemptions. If a development activity is determined to be exempt, it must otherwise comply with applicable provisions of the Act and Chapter 83 KZC.

² Limited to water-based aircraft facilities for air charter operations.

³ Permitted as an accessory use to a public park.

⁴ Permitted if located on the west side of Lake Washington Boulevard NE/Lake Street South, south of Lake Avenue West and north of NE 52nd Street, and south of NE Juanita Drive.

⁵ Permitted in the Juanita Business District or as an accessory use to a marina.

⁶ Accessory to a marina only.

⁷ Drive-in or drive-through facilities are prohibited.

⁸ Use must be open to the general public.

⁹ *Repealed by Ord. 4302.*

¹⁰ Permitted as part of mixed-use development containing water-dependent uses (excluding moorage buoys or floats), where there is intervening development between the shoreline and the use, or if located on the east side of Lake Washington Boulevard NE/Lake Street South or the east side of 98th Avenue NE.

¹¹ Permitted if located on the east side of Lake Washington Boulevard NE between NE 60th Street and 7th Avenue South.

¹² No boat shall be used as a place of habitation.

¹³ Permitted if located south of NE 60th Street only.

¹⁴ Permitted as an accessory use to a marina or public park only.

¹⁵ This use does not include other public recreational uses or facilities specifically listed in this chart.

¹⁶ Limited to trails, viewpoints, interpretative signage and similar passive and low-impact facilities.

¹⁷ One (1) accessory dwelling unit (ADU) is permitted subordinate to a detached dwelling unit.

¹⁸ A nursing home use may be permitted as part of an assisted living facility use.

¹⁹ Permitted if located on the east side of Lake Washington Boulevard NE/Lake Street South, the east side of 98th Avenue NE or north of NE Juanita Drive.

²⁰ Not permitted in the Central Business District. Otherwise, permitted if located on the east side of Lake Washington Boulevard NE/Lake Street South, the east side of 98th Avenue NE or on the south side of NE Juanita Drive.

²¹ May not create any new lot that would be wholly contained within shoreland area in this shoreline environment.

²² Permitted as an accessory use to a marina or a public park.

²³ Construction of pedestrian and bicycle facilities only.

²⁴ This use may be allowed provided there is no other feasible route or location. Must be underground unless not feasible.

²⁵ Wireless towers are not permitted.

²⁶ Permitted under a substantial development permit when associated with certain shoreline stabilization measures, and habitat and natural system enhancement projects. See KZC 83.300(10) and 83.350.

(Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

Use Specific Regulations

83.180 Shoreline Development Standards

1. General
 - a. See KZC 83.40 for relationship to other codes and ordinances.
 - b. Development standards specified in this chapter shall not extend beyond the geographic limit of the shoreline jurisdiction, except as noted in the provisions contained below.
2. Development Standards Chart
 - a. The following chart establishes the minimum required dimensional requirements for development. At the end of the chart are footnotes pertaining to certain uses and activities.
 - b. KZC 83.170 contains an overview of the activities permitted under each of the use classifications contained in the development standards chart.
 - c. KZC 83.180 through KZC 83.560 contain additional standards for the uses and activities, including provisions for no net loss and mitigation sequencing in KZC 83.360 and federal and state approval in KZC 83.370.

DEVELOPMENT STANDARDS	SHORELINE ENVIRONMENT					
	Aquatic	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed
Residential Uses						
Detached Dwelling Units and Accessory Dwelling Units						
Minimum Lot Size	n/a	12,500 sq. ft.	12,500 sq. ft.	R-L (A) and (B) environments: 12,500 sq. ft. except for the following: <ul style="list-style-type: none"> • 5,000 sq. ft. if located on east side of Lake St. S., at 7th Ave S.; and • 7,200 sq. ft. to 12,500 sq. ft. if located on east side of Lake Washington Blvd. NE between NE 48th St. and NE 43rd St.; and • 7,200 sq. ft. if subject to the historic preservation provisions of KMC 22.28.048 R-L (C) through (J) environments: <ul style="list-style-type: none"> • RSA 4 zone: maximum of 4 dwelling units per acre • RSA 6 zone: maximum of 6 dwelling units per acre • RSA 8 zone: maximum of 8 dwelling units per acre 	R-M/H (A) environment: 3,600 sq. ft., except 1,800 sq. ft. south of NE Juanita Drive R-M/H (B) environment: 1,800 sq. ft.	3,600 sq. ft.

DEVELOPMENT STANDARDS	SHORELINE ENVIRONMENT					
	Aquatic	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed
Shoreline Setback ¹	n/a	30% of the average parcel depth, except in no case is the shoreline setback permitted to be less than 30 feet or required to be greater than 60 feet, except as otherwise specifically allowed through this chapter.	Outside of shorelines jurisdictional area, if feasible, otherwise 50'.	Residential – L (R-L) shoreline setbacks shall be as follows, except as otherwise specifically allowed through this chapter: <ul style="list-style-type: none"> • R-L (A) Average adjacent setback of primary structures but not less than 15 ft. See KZC 83.190(2) for additional regulations. • R-L (B) 30% of the average parcel depth but not less than 30 ft. and not required to be greater than 60 ft. • R-L (C) 25% of average parcel depth but not less than 30 ft. and not required to be greater than 60 ft. • R-L (D) 15% of average parcel depth but not less than 25 ft. and not required to be greater than 80 ft. 	R-M/H (A) environment: The greater of: a. 25' or b. 15% of the average parcel depth. R-M/H (B) environment: 45 minimum.	The greater of: a. 25' or b. 15% of the average parcel depth.
Shoreline Setback ¹ (continued)				<ul style="list-style-type: none"> • R-L (E) 30% of average parcel depth but not less than 30 ft. and not required to be greater than 80 ft. • R-L (F) 15% of average parcel depth but not less than 15 ft. 		

DEVELOPMENT STANDARDS	SHORELINE ENVIRONMENT					
	Aquatic	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed
				<ul style="list-style-type: none"> • R-L (G) 20% of average parcel depth but not less than 30 ft. and not required to be greater than 60 ft. • R-L (H) 25% of average parcel depth but not less than 30 ft. and not required to be greater than 80 ft. • R-L (I) 20% of average parcel depth but not less than 25 ft. • R-L (J) 15 ft. minimum. 		
Shoreline Setback ¹ (continued)				<p>For properties containing non-conforming primary structures in the R-L (C) through R-L (I) shoreline environments, the average parcel depth percentage may be reduced by 5 percentage points, provided the following conditions are met:</p> <ul style="list-style-type: none"> • The nonconforming structure must have been constructed prior to June 1, 2011, the date of annexation, based on the date of issuance of the occupancy permit; • The minimum setback standard is met for the shoreline environment; and 		

DEVELOPMENT STANDARDS	SHORELINE ENVIRONMENT					
	Aquatic	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed
Shoreline Setback ¹ (continued)				<ul style="list-style-type: none"> The required vegetation in the shoreline setback under KZC 83.400(3)(b) shall be increased from an average of 10 feet in depth from the OHWM to an average of 20 feet in depth from the OHWM. The vegetated portion may be a minimum of 10 feet in depth to allow for variation in landscape bed shape and plant placement. Total square feet of landscaped area shall be equal to a continuous 20-foot-wide area. 		
Maximum Lot Coverage	n/a	50%	50%	50%	80%	80%, except in CBD zone 100% less area for shoreline vegetation if required.
Maximum Height of Structure ²	n/a	25' above ABE ³	35' above ABE	30' above ABE	35' above ABE	35' above ABE
Other Residential Uses (Attached, Stacked, and Detached Dwelling Units/multifamily; Assisted Living Facility; Convalescent Center or Nursing Home)						
Maximum Density ⁴	n/a	n/a	n/a	n/a	R-M/H (A) environment: 3,600 sq. ft./unit, except 1,800 sq. ft./unit for up to 2 dwelling units if the public access provisions of KZC 83.420 are met.	No minimum lot size in the CBD or BN zones; otherwise 1,800 sq. ft./unit.

DEVELOPMENT STANDARDS	SHORELINE ENVIRONMENT					
	Aquatic	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed
					R-M/H (B) environment: 1,800 sq. ft./unit.	
Shoreline Setback ¹	n/a	n/a	n/a	n/a	R-M/H (A) environment: The greater of: a. 25' or b. 15% of the average parcel depth. R-M/H (B) environment: 45' minimum.	The greater of: a. 25' or b. 15% of the average parcel depth. In the PLA 15A zone located south of NE 52nd Street, a mixed-use development approved under a master plan shall comply with the Master Plan provisions.
Maximum Lot Coverage	n/a	n/a	n/a	n/a	80%	80%, except in CBD zone. In CBD, 100% less area for shoreline vegetation if required.
Maximum Height of Structure ²	n/a	n/a	n/a	n/a	R-M/H (A) environment: 30' above ABE ⁵ . R-M/H (B) environment: 35' above ABE.	41' above ABE, except for the following: <ul style="list-style-type: none"> • In the CBD zones, if located on the east side of Lake Street South, 55' above the abutting right-of-way measured at the midpoint of the frontage of the subject property. • In the PLA 15A zone located south of NE 52nd Street, mixed-use developments approved under a master plan shall comply with the Master Plan provisions.⁶
Commercial Uses						

DEVELOPMENT STANDARDS	SHORELINE ENVIRONMENT					
	Aquatic	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed
Minimum Lot Size	n/a	n/a	n/a	n/a	n/a	n/a
Shoreline Setback ¹	n/a	n/a	Water-dependent uses: 0', Water-related use: 25', Water-enjoyment use: 30', Other uses: Outside of shorelines jurisdictional area, if feasible, otherwise 50'.	n/a	R-M/H (A) environment: The greater of: a. 25' or b.15% of the average parcel depth. R-M/H (B) environment: 45' minimum.	The greater of: a. 25' or b.15% of the average parcel depth. In the PLA 15A zone located south of NE 52nd Street, mixed-use developments approved under a master plan shall comply with the master plan provisions.
Maximum Lot Coverage	n/a	n/a	50%	n/a	80%	80%, except in the CBD. In CBD, 100% less area for shoreline vegetation if required.
Maximum Height of Structure ²	n/a	n/a	If adjoining the Residential-L (A) or (B) environment, then 25' above ABE. Otherwise, 30' above ABE. ³	n/a	RM-L (A) environment: 30' above ABE ⁵ . RM-L (B) environment: 35' above ABE.	41' above ABE, except for: <ul style="list-style-type: none"> • In the CBD zones, if located on the east side of Lake St. S., 55' above the abutting right-of-way measured at the midpoint of the frontage of the subject property. • In the PLA 15A zone located south of NE 52nd Street, mixed-use developments approved under a master plan shall comply with the master plan provisions.⁶
Recreational Uses						
Minimum Lot Size	n/a	n/a	n/a	n/a	n/a	n/a

DEVELOPMENT STANDARDS	SHORELINE ENVIRONMENT					
	Aquatic	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed
Shoreline Setback ¹	n/a	Water-dependent uses: 0', Water-related use: 25', Water-enjoyment use: 30', Other uses: Outside of shoreline area, if feasible, otherwise 50'.	Water-dependent uses: 0', Water-related use: 25', Water-enjoyment use: 30', Other uses: Outside of shorelines jurisdictional area, if feasible, otherwise 50'.	Same as Detached Dwelling Units uses.	R-M/H (A) environment: The greater of: a. 25' or b. 15% of the average parcel depth. R-M/H (B) environment: 45' minimum.	Water-dependent uses: 0'. Water-related use: 25'. Other uses: The greater of: a. 25' or b. 15% of the average parcel depth. In the PLA 15A zone located south of NE 52nd Street, mixed-use developments approved under a Master Plan shall comply with the Master Plan provisions.
Maximum Lot Coverage	n/a	10%	30%	30%	80%	80%, except in CBD zone. In CBD, 100% less area for shoreline vegetation if required.
Maximum Height of Structure ²	n/a	25' above ABE	If adjoining the Residential – L (A) or (B) environment, then 25' above ABE. Otherwise, 30' above ABE ³ .	R-L (A) and (B) environments: 25' above ABE. R-L (C) through (J) environments: 30' above ABE.	R-M/H (A) and (B) environment: 30' above ABE ⁴ . R-M/H (B) environment: 35' above ABE.	41' above ABE, except for the following: <ul style="list-style-type: none"> In the CBD zones, if located on the east side of Lake St. S., 55' above the abutting right-of-way measured at the midpoint of the frontage of the subject property. In the PLA 15A zone located south of NE 52nd Street, mixed-use developments approved under a Master Plan shall comply with the Master Plan provisions.
Institutional Uses						
Minimum Lot Size	n/a	n/a	n/a	n/a	n/a	n/a
Shoreline Setback ¹	n/a	n/a	Outside of shorelines	Same as Detached Dwelling Units uses.	R-M/H (A) environment:	The greater of: a. 25' or

DEVELOPMENT STANDARDS	SHORELINE ENVIRONMENT					
	Aquatic	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed
			jurisdictional area, if feasible, otherwise 50'.		The greater of: a. 25' or b.15% of the average parcel depth. R-M/H (B) environment: 45' minimum.	b.15% of the average parcel depth.
Maximum Lot Coverage	n/a	n/a	50%	50%	80%	80%, except in CBD zone. In CBD, 100% less area for shoreline vegetation if required.
Maximum Height of Structure ²	n/a	n/a	If adjoining the Residential – L (A) or (B) environment, then 25' above ABE. Otherwise, 30' above ABE ³ .	R-L (A) and (B) environments: 25' above ABE. R-L (C) through (J) environments: 30' above ABE.	R-M/H (A) environment: 30' above ABE ⁵ . R-M/H (B) environment: 35' above ABE.	41' above ABE, except in the CBD zones, if located on the east side of Lake St. S., 55' above the abutting right-of-way measured at the midpoint of the frontage of the subject property.
Transportation Facilities						
Minimum Lot Size	n/a	n/a	n/a	n/a	n/a	n/a
Shoreline Setback ¹	n/a	n/a	Outside of shorelines jurisdictional area, if feasible, otherwise 50'.	Same as Detached Dwelling Units uses.	R-M/H (A) environment: The greater of: a. 25' or b.15% of the average parcel depth. R-M/H (B) environment: 45' minimum.	The greater of: a. 25' or b.15% of the average parcel depth.
Maximum Lot Coverage	n/a	n/a	n/a	n/a	n/a	n/a
Maximum Height of Structure ²	n/a	n/a	n/a	n/a	n/a	n/a
Utilities						
Minimum Lot Size	n/a	n/a	n/a	n/a	n/a	n/a

DEVELOPMENT STANDARDS	SHORELINE ENVIRONMENT					
	Aquatic	Natural	Urban Conservancy	Residential – L	Residential – M/H	Urban Mixed
Shoreline Setback ^{1,2}	n/a	Outside of shoreline area, if feasible, otherwise 50'.	Outside of shoreline jurisdictional area, if feasible, otherwise 50'.	Same as Detached Dwelling Units uses.	R-M/H (A) environment: The greater of: a. 25' or b.15% of the average parcel depth. R-M/H (B) environment: 45' minimum.	The greater of: a. 25' or b.15% of the average parcel depth.
Maximum Lot Coverage	n/a	5%	30%	50%	80%	80%, except in CBD zone. In CBD, 100% less area for shoreline vegetation if required.
Maximum Height of Structure ²	n/a	25' above ABE	If adjoining the Residential – L (A) or (B) environment, then 25' above ABE. Otherwise, 30' above ABE ³ .	R-L (A) and (B) environments: 25' above ABE. R-L (C) through (J) environments: 30' above ABE.	R-M/H (A) environment: 30' above ABE. R-M/H (B) environment: 35' above ABE ⁵ .	41' above ABE, except: <ul style="list-style-type: none"> • In the CBD zones if located on the east side of Lake St. South, 55' above the abutting right-of-way measured at the midpoint of the frontage of the subject property. • In the PLA 15A zone located south of NE 52nd Street, mixed-use developments approved under a Master Plan shall comply with the Master Plan provisions.⁵

Footnotes listed at end of KZC 83.180 (end of chart)

¹ Critical area buffer and buffer setback requirements may impose a larger setback requirement. Please see KZC [83.500 and 83.510](#) Chapter 90.

² The height limit applies to that portion of the building physically located within the shoreline jurisdiction. Permitted increases in building height are addressed in KZC 83.190(4).

³ Structure height may be increased to 30 feet above ABE in the Natural shoreline environment. See KZC 83.190(4)(e)(1).

⁴ For density purposes two (2) assisted living units shall constitute one (1) dwelling unit.

⁵ Structure height may be increased to 35 feet above ABE. See KZC 83.190(4).

⁶ See KZC 83.190(4) for height in Master Plan.

⁷ Storm water outfalls may be within the shoreline setback.

(Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.190 Lot Size or Density, Shoreline Setback, Lot Coverage and Height

1. Calculation of Minimum Lot Size or Maximum Density
 - a. Development shall not use lands waterward of the OHWM to determine minimum lot size or to calculate allowable maximum density.
 - b. For properties that are only partially located within the shoreline jurisdiction, the allowed density within the shoreline jurisdiction shall be based upon the land area located within the shoreline jurisdiction only. If dwelling units will be partially located within the shoreline jurisdiction, the City may approve an increase in the actual number of units in the shoreline jurisdiction; provided, that the total square footage of the units within the shoreline jurisdiction does not exceed the allowed density multiplied by the average unit size in the proposed development on the subject property.
 - c. If a maximum density standard is used, the number of permitted dwelling units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.50.
 - d. For detached dwelling units, the provisions addressing lot size, lot size averaging, and historic preservation contained in Chapter 22.28 KMC shall apply within the shoreline jurisdiction.
2. Shoreline Setback
 - a. General – This section establishes what structures, improvements, and activities may be in or take place in the shoreline setback established for each use in each shoreline environment.
 - b. Measurement of Shoreline Setback
 - 1) The shoreline setback shall be measured landward from the OHWM on the horizontal plane and in the direction that results in the greatest dimension from the OHWM (see Plate 41).
 - 2) In those instances where the OHWM moved further upland pursuant to any action required by this chapter, or in accordance with permits involving a shoreline habitat and natural systems enhancement project approved by the City, a state or federal agency, the shoreline setback shall be measured from the location of the OHWM that existed immediately prior to the action or enhancement project.
 - 3) For those properties located in the R-L (A) shoreline environment, the shoreline setback standard shall be as follows:
 - a) If dwelling units exist immediately adjacent to either side of the subject property, then the shoreline setback of the primary structure on the subject property is the average of the shoreline setback of the primary structures of the two (2) adjacent dwelling units, but at a minimum width of 15 feet. The shoreline setback of the subject property shall be calculated by measuring the closest point of the primary structure to the OHWM on the adjacent property located on each side of the subject property and averaging the two (2) shoreline setbacks. The setback measurement shall exclude those features allowed to extend into the shoreline setback as identified in subsection (2)(d)(8) of this section, and decks, patios and similar features.
 - b) If a dwelling unit does not exist immediately adjacent to the subject property, then the setback of the adjacent property without a dwelling unit for the purposes of determining an average setback shall be based upon 30 percent of the average parcel depth of the adjacent property.
 - c) In instances where the shoreline setback of an adjacent dwelling unit has been reduced through a shoreline reduction authorized under KZC 83.380, the shoreline setback of the adjacent dwelling units, for the purpose of calculating a setback average, shall be based upon the required setback that existed prior to the authorized reduction.
 - 4) In those instances where there is an intervening property that is 80 feet or less in depth between the OHWM and an upland property, a shoreline setback shall be provided on the upland property based on the

average parcel depth of the upland property. The setback on the upland property shall be measured from the OHWM across the intervening property and the upland property.

- c. Exceptions and Limitations in Some Zones – This section through KZC 83.250 contain specific regulations regarding what may be in or take place in the shoreline setback. Where applicable, those specific regulations supersede the provisions of this subsection.
- d. Structures and Improvements – The following improvements or structures may be located in the shoreline setback, except within the Natural shoreline environment; provided, that they are constructed and maintained in a manner that meets KZC 83.360 for avoiding or at least minimizing adverse impacts to shoreline ecological functions:
- 1) For public pedestrian access required under KZC 83.420, walkways, benches, and similar features, as approved by the Planning Official.
 - 2) For private pedestrian access to the shoreline, walkways within the shoreline setback are permitted, subject to the following standards:
 - a) The maximum width of the walkway corridor area shall be no more than 25 percent of the property's shoreline frontage, except in no case shall the corridor area required be less than 15 feet in width (see Plate 42).
 - b) The walkway corridor area shall be located outside of areas of higher ecological and habitat value.
 - c) The walkway in the corridor area shall be no more than eight (8) feet wide, and be constructed of a pervious walking surface, such as unit pavers, grid systems, pervious concrete, or, equivalent material approved by the Planning Official. The walkway may be divided into two narrower walkways within the corridor, but in no case shall the two walkways exceed 8 feet total. Walkways shall be essentially perpendicular not be parallel to the lake.
 - d) The walkway corridor area may contain minor improvements, such as garden sculptures, light fixtures, trellises and similar decorative structures that are associated with the walkway; provided, that these improvements comply with the dimensional limitations required for the walkway corridor area and any view corridor requirements under KZC 83.410. Light fixtures approved under this subsection shall comply with the provisions contained in KZC 83.470.
 - 3) Those portions of a water-dependent development that require improvements adjacent to the water's edge, such as fueling stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches or other similar activities.
 - 4) Public access facilities or other similar public water-enjoyment recreational uses, including swimming beaches.
 - 5) Underground utilities accessory to a shoreline use approved by the Planning Official, provided there is no other feasible route or location.
 - 6) Bioretention swales, rain gardens, or other similar bioretention systems that allow for filtration of water through planted grasses or other native vegetation.
 - 7) Infiltration systems; provided, that installation occurs as far as feasible from the OHWM.
 - 8) Bay windows, greenhouse windows, eaves, cornices, awnings, and canopies may extend up to 18 inches into the shoreline setback, subject to the following limitations:
 - a) Eaves on bay windows may extend an additional 18 inches beyond the bay window.

- b) Chimneys that are designed to cantilever or otherwise overhang are permitted.
 - c) The total horizontal dimension of these elements that extend into the shoreline setback, excluding eaves and cornices, shall not exceed 25 percent of the length of the facade of the structure.
- 9) Decks, patios and similar improvements may extend up to 10 feet into the shoreline setback but shall not be closer than 25 feet to the OHWM, except no closer than 15 feet to the OHWM within the Residential – L (A), (F) and (J) environments, subject to the following standards:
- a) The improvement shall be constructed of a pervious surface, such as wood with gaps between boards and a pervious surface below, unit pavers, grid systems, pervious concrete, or, alternatively, equivalent material approved by the Planning Official.
 - b) The total horizontal dimension of the improvement that extends into the shoreline setback, including private walkways permitted under Subsection 2.d.2) of this section, shall not exceed 50 percent of the length of the facade of the primary residence-structure facing the lake.
 - c) The improvement shall be located on the ground floor of the building and shall not be elevated more than necessary to allow for grade transition from the structure to the deck or to follow the existing topography.
- 10) In the Urban Mixed shoreline environment, balconies at least 15 feet above finished grade may extend up to four (4) feet into the required shoreline setback, but no closer than 21 feet to the OHWM.
- 11) Outdoor seating areas for restaurants, hotels and other water enjoyment commercial uses may extend up to 10 feet into the shoreline setback, but shall be no closer than 16 feet to the OHWM, subject to the following standards:
- a) The improvement shall be constructed of a permeable surface, such as wood with gaps between boards and a pervious surface below, unit pavers, grid systems, porous concrete, or equivalent material approved by the Planning Official.
 - b) The total horizontal dimension of the improvement that extends into the shoreline setback shall not exceed 50 percent of the length of the facade of the primary structure.
 - c) The improvement shall be located on the ground floor of the building and shall not be elevated more than necessary to allow for grade transition from the structure to the seating area or to follow the existing topography.
 - d) All outdoor lighting is required to meet the lighting standards of KZC 83.470.
 - e) The seating area is required to be fenced off from the shoreline by rope stanchions, portable planters, or similar device approved by the City, with openings through the fencing for customer entry. The floor plan of the seating area shall be designed to preclude the seating area from being expanded.
 - f) The applicant is required to provide one (1) or more approved trash receptacles and one (1) or more ashtrays.
 - g) The area of the seating shall be considered new gross floor area for the purposes of determining whether vegetation is required under the provisions of KZC 83.400.
- 12) Retaining walls and similar structures that are no more than four (4) feet in height above finished grade; provided the following standards are met:
- a) The structure shall be designed so that it does not interfere with the shoreline vegetation required to be installed under the provisions of KZC 83.400;

- b) The structure is not for retaining new fill to raise the level of an existing grade, but only to retain an existing slope prior to construction and installed at the minimum height necessary;
 - c) The structure shall not be installed to provide the function of a hard shoreline stabilization measure unless approved under the provisions of KZC 83.300 and shall be located, on average, five (5) feet landward or greater of the OHWM; and
 - d) The structure shall meet the view corridor provisions of KZC 83.410.
- 13) Public bridges and other essential public facilities that must cross the shoreline.
 - 14) Parking as authorized by the Planning Official under the provisions of KZC 83.440.
 - 15) Shoreline stabilization measures approved under the provisions of KZC 83.300.
 - 16) Fences, swimming pools, tool sheds, greenhouses, non-permeable artificial turf, and other accessory structures and improvements are not permitted within the shoreline setback, except those specifically listed in subsection (2)(d) of this section.
 - 17) Motorized watercraft, float planes, RVs, trailers and similar items shall not be stored or placed in the shoreline setback.
3. Maximum Lot Coverage
- a. General
 - 1) KZC 83.180(2), Development Standards Chart, establishes the maximum lot coverage by use and shoreline environment.
 - 2) In calculating lot coverage, lands waterward of the OHWM shall not be included in the calculation.
 - 3) The area of all structures and pavement and any other impervious surface on the subject property will be calculated under either of the following, at the discretion of the applicant:
 - a) A percentage of the total lot area of the subject property; or
 - b) A percentage of the area of the subject property located within the shoreline jurisdiction.
 - 4) If the subject property contains more than one (1) use, the maximum lot coverage requirements for the predominant use will apply.
 - 5) In those instances where the OHWM moved further upland pursuant to any action required by this chapter, or in accordance with permits involving a shoreline habitat and natural systems enhancement project approved by the City, a state or federal agency, the lot area for purposes of calculating lot coverage shall be measured from the location of the OHWM that existed immediately prior to the enhancement project.
 - b. Exceptions – The exceptions contained in Chapter 115 KZC shall apply within the shoreline jurisdiction.
4. Height Regulations
- a. General
 - 1) KZC 83.180(2), Development Standards Chart, establishes the maximum allowed building height for all primary and accessory structures. In the event that the maximum allowable building height in KZC 83.180(2) is greater than the maximum allowable height in Chapters 15 through 56 KZC for those zones within the shoreline jurisdiction, the lower of the two (2) height provisions shall apply.

- 2) Maximum building height shall be measured from an average building elevation (ABE), calculated under the methods described in Chapter 115 KZC and depicted in Plates 17A and 17B. The calculation of ABE shall be based on all wall segments of the structure, whether or not the segments are located within the shoreline's jurisdiction.
 - 3) In the CBD zones, maximum building height shall be measured from the midpoint of the abutting right-of-way, not including alleys.
 - 4) Pursuant to RCW 90.58.320, no permit shall be issued for any new or expanded building or structure more than 35 feet above average grade level that will obstruct the view to the lake of a substantial number of residences on or adjoining the shoreline, except where this chapter does not prohibit a height of more than 35 feet and only when overriding considerations of the public interest will be served. The applicant shall be responsible for providing sufficient information to the City to determine whether such development will obstruct the view to the lake for a substantial number of residences on or adjoining such shorelines. For the purposes of this provision, average grade level is equivalent to and shall be calculated under the method for calculating average building elevation established in Option 2 as described in Chapter 115 KZC for calculating average building elevation and depicted in Plate 17B.
- b. Exceptions – Element or feature of a structure, other than the appurtenances listed below, shall not exceed the applicable height limitation established for each use in each shoreline environment. The following appurtenances shall be located and designed so that views from adjacent properties to the lake will not be significantly blocked.
- 1) Antennas, chimneys, and similar appurtenances, but not including personal wireless service facilities that are subject to the provisions of Chapter 117 KZC.
 - 2) Rooftop appurtenances and their screens as regulated in Chapter 115 KZC.
 - 3) Decorative parapets or peaked roofs approved through design review pursuant to Chapter 142 KZC.
 - 4) Rooftop solar panels or other similar energy devices; provided, that the equipment is mounted as flush to the roof as feasible.
- c. Permitted Increases in Height – The following permitted increases in building height shall be reviewed by the City as part of the shoreline permit required for the proposed development activity.
- 1) In the Natural shoreline environment, the structure height of a detached dwelling unit may exceed the standard height limit by a maximum of five (5) feet above average building elevation if a reduction in the footprint of the building is sufficient to lessen the impact on a sensitive area and sensitive area buffer. The City shall include in the written decision any conditions and restrictions that it determines are necessary to eliminate or minimize any undesirable effects of approving the exception.
 - 2) In the Residential – M/H and Urban Conservancy shoreline environments located south of Market Street, the structure height of a commercial, recreational, institutional, utility or residential use, other than a detached dwelling unit, may be increased to 35 feet above average building elevation if:
 - a) Obstruction of views from existing development lying east of Lake Street South or Lake Washington Boulevard is minimized. The applicant shall be responsible for providing sufficient information to the City to evaluate potential impacts to views; and
 - b) The increase is offset by an enhanced view corridor beyond what is required in KZC 83.410.
 - 3) Properties in the PLA 15A zone in the UM shoreline environment that contain mixed- use development where building heights have been previously established under an approved Master Plan shall comply with the building height requirements as approved. Modifications to the approved building heights shall be considered under the standards established in the Master Plan and in consideration of the compatibility with adjacent uses and the degree to which public access, use and views are provided.

- 4) In all shoreline environments, the maximum height may be increased up to 35 feet if the City approves a Planned Unit Development under the provisions of Chapter 125 KZC.

(Ord. 4476 § 3, 2015; Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.200 Residential Uses

1. General – Residential uses shall not occur over water, including houseboats, live-aboards, or other single- or multifamily dwelling units.
2. Detached Dwelling Units in the Residential – L Shoreline Environment – Not more than one (1) dwelling unit shall be on each lot, regardless of the size of each lot, except an accessory dwelling unit.
3. Accessory Structures or Uses – Accessory uses and structures shall be located landward of the principal residence, except those permitted in the shoreline setback under KZC 83.190, unless or the structure is or supports a water-dependent use, such as a pier or dock or boat canopies. This provision does not apply if an improved public right-of-way or vehicular access easement separates the principal residence from the lake.

(Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.210 Commercial Uses

1. Float Plane Landing and Mooring Facilities
 - a. Use of piers or docks for commercial float plane service shall be allowed only in public or private marinas and shall be subject to a conditional use permit.
 - b. Any shoreline conditional use permit for float plane use shall specify:
 - 1) Taxiing patterns to be used by float planes that will minimize noise impacts on area residents and wildlife and minimize interference with navigation and moorage;
 - 2) Float plane facilities and services shall conform to all applicable City codes and Federal Aviation Administration standards and requirements for fuel, oil spills, safety and firefighting equipment, noise, and pedestrian and swimming area separation; and
 - 3) Hours of operation may be limited to minimize impacts on nearby residents.
2. Retail Establishment Providing New or Used Boat Sales or Rental – Outdoor boat parking and storage areas must be buffered as required for a parking area under the provisions of KZC 83.440.
3. Retail Establishment Providing Gas and Oil Sale for Boats -Including mobile fueling businesses.
 - a. The location and design of fueling facilities must meet applicable state and federal regulations.
 - b. Storage of petroleum products shall not be located over water.
 - c. Storage tanks shall be located underground and shall comply with state and federal standards for underground storage tanks.
 - d. Fueling stations shall be located and designed to allow for ease of containment and spill cleanup.
 - e. New fueling facilities shall incorporate the use of automatic shutoffs on fuel lines and at hose nozzles to reduce fuel loss.
 - f. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided.
 - g. See KZC 83.360 for avoiding and minimizing impacts when locating, designing, constructing and operating the use.

4. Retail Establishment Providing Boat and Motor Repair and Service
 - a. Storage of parts shall be conducted entirely within an enclosed structure.
 - b. If hull scraping, boat painting, or boat cleaning services are provided, boats shall be removed from the water and debris shall be captured and disposed in a proper manner.
 - c. Repair and service activities shall be conducted on dry land and either totally within a building or totally sight screened from adjoining property and the right-of-way.
 - d. All dry land motor testing shall be conducted within a building.
 - e. An appropriate storage, transfer, containment, and disposal facility for liquid material, such as oil, harmful solvents, antifreeze, and paints shall be provided and maintained.
 - f. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum or hazardous products shall be provided.
5. Restaurant or Tavern
 - a. The building design must be oriented for the view to the waterfront.
 - b. Drive-in or drive-through facilities are prohibited.

(Ord. 4251 § 3, 2010)

83.220 Recreational Uses

1. Motorized Boats – See Chapter 14.24 KMC, Operation of Watercraft, for prohibition of use within restricted shoreline areas and established speed limits.
2. Floats/Swim Platforms – Only public floats/swim platforms are permitted.
3. Marina, Piers, Moorage Buoy or Pilings, Boat Facility and Boat Canopies – See standards contained in KZC 83.270 through 83.290.
4. Tour Boat Facility – Tour boat facilities shall be designed to meet the following standards:
 - a. Size – The City will determine the maximum capacity of the tour boat facility based on the following factors:
 - 1) The suitability of the environmental conditions, such as, but not limited to, a consideration of the following conditions: the presence of submerged aquatic vegetation, proximity to shoreline associated wetlands, critical nesting and spawning areas, water depth, water circulation, sediment inputs and accumulation, and wave action.
 - 2) The ability of the land landward of the ordinary high waterline to accommodate the necessary support facilities.
 - b. Moorage structures supporting a tour boat facility shall comply with the moorage structure location standards and design standards for marinas in KZC 83.290.
 - c. The City will make the determination if any parking and/or a passenger loading area will be required.
 - d. Associated buildings and structures, other than moorage structure for the tour boat facility, shall not be permitted over water.
 - e. Tour boat facilities shall comply with applicable state and/or federal laws, including but not limited to those for registration, licensing of crew and safety regulations.

- f. Tour boat facilities operated accessory to public parks shall comply with the standards in Chapter 14.36 KMC.
 - g. See KZC 83.360 for avoiding and minimizing impacts when locating, designing, constructing and operating the use.
5. Public Access Pier, Dock or Boardwalk
- a. See KZC 83.360 for avoiding and minimizing impacts when locating, designing and constructing the use.
 - b. No accessory uses, buildings, or activities are permitted as part of this use.
 - c. See KZC 83.370 for federal and state approvals prior to submittal of a building permit for this use.
 - d. Must provide at least one (1) covered and secured waste receptacle upland of the OHWM.
 - e. All utility and service lines located waterward of the OHWM must be below the pier deck. All utility and service lines located upland of the OHWM shall be underground, where feasible.
 - f. Piers or docks shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night.
 - g. Structures must display the street address of the subject property. The address must be oriented to the lake with letters and numbers at least four (4) inches high and visible from the lake.
 - h. Public access structures shall not be within 10 feet of a side property line, except that setbacks between moorage structures and the side property lines that intersect the OHWM may be decreased for overwater public use facilities that connect with waterfront public access on adjacent property.
 - i. Public access structures shall be separated from the outlet of a stream, including piped streams, by the maximum extent feasible, while meeting other required setback standards established under this section.
 - j. Pier structures shall comply with the moorage structure design standards for marinas in KZC 83.290, except primary walkways and floats shall be no wider than eight (8) feet.
6. Boat Launch (for Nonmotorized Boats)
- a. Location Standards – Boat launches for nonmotorized boats shall be sited so that they do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation. Removal of native upland vegetation shall be minimized to the greatest extent feasible.
 - b. Size – The applicant shall demonstrate that the proposed size of the boat launch is the minimum necessary to safely launch the intended craft.
 - c. Design Standards – Boat launches for nonmotorized boats shall be constructed of gravel or other similar natural material.
7. Boat Launch (for Motorized Boats)
- a. Location Standards
 - 1) Boat launches shall not be approved in cases when it can be reasonably foreseen that the development or use would require maintenance dredging during the life of the development or use.
 - 2) Boat launches shall be designed and located according to the following criteria:
 - a) Separated from existing designated swimming areas by a minimum of 25 feet.
 - b) Meet KZC 83.360 for avoiding impacts to fish and wildlife habitats.

- c) Located only at sites with suitable transportation access. The applicant must demonstrate that the streets serving the boat launch can safely handle traffic generated by such a facility.
 - d) Not be located within 25 feet of a moorage structure not on the subject property; or within 50 feet of the outlet of a stream, including piped streams.
- b. Size – The applicant shall demonstrate that the proposed length of the ramp is the minimum necessary to safely launch the intended craft. In no case shall the ramp extend beyond the point where the water depth is six (6) feet below the OHWM, unless the City determines that a greater depth is needed for a public boat launch facility.
- c. Design Standards
- 1) Preferred ramp designs, in order of priority, are:
 - a) Open grid designs with minimum coverage of lake substrate.
 - b) Seasonal ramps that can be removed and stored upland.
 - c) Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile.
 - 2) The design shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or other agencies with jurisdiction.
- d. Boat launches shall provide trailer spaces, at least 10 feet by 40 feet, commensurate with projected demand.
8. Public Park – Recreation facilities that support non-water-related, high-intensity activities, such as basketball and tennis courts, baseball and soccer fields and skate parks, shall be located outside of shorelines jurisdiction to the extent feasible.
9. Public Access Facility
- a. Fragile and unique shoreline areas with valuable ecological functions, such as wetlands and wildlife habitats, shall be used only for nonintensive recreation activities, such as trails, viewpoints, interpretative signage and similar passive and low-impact facilities.
 - b. Physical public access shall be located, designed and constructed to meet KZC 83.360 for net loss of shoreline ecological functions.
- (Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.230 Transportation Facilities

1. General

- a. See KZC 83.360 for avoiding and minimizing impacts when locating, designing, constructing and operating the use.
- b. Transportation facilities shall utilize existing transportation corridors whenever feasible; provided, that facility additions and modifications that will not adversely impact shoreline resources and otherwise be consistent with this chapter are allowed. If expansion of the existing corridor will result in significant adverse impacts, then a less disruptive alternative shall be utilized.
- c. When permitted within shoreline areas, transportation facilities must be placed and designed to minimize negative aesthetic impacts upon shoreline areas and to avoid and minimize impacts to existing land uses, public shoreline views, public access, and the natural environment.

- d. Transportation and utility facilities shall be required to make joint use of rights-of-way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.
- e. Transportation facilities located in shoreline areas must be designed and maintained to prevent erosion and to permit the natural movement of surface water.

2. Construction and Maintenance

- a. All debris and other waste materials from roadway construction and maintenance shall be disposed of in such a way as to prevent their entry into any water body.
- b. All shoreline areas disturbed by facility construction and maintenance shall be replanted and stabilized with approved riparian vegetation by seeding, mulching, or other effective means immediately upon completion of the construction or maintenance activity. The vegetation shall be maintained until established.
- c. Clearing of vegetation within transportation corridors shall be the minimum necessary for infrastructure maintenance and public safety. The City shall give preference to mechanical means rather than the use of herbicides for roadside brush control on city roads in shorelines jurisdiction.
- d. Construction of facilities that cross streams to allow passage of fish inhabiting the stream or that may inhabit the stream in the future are allowed.
- e. Construction of facilities within the 100-year floodplain to allow for water pass-through is allowed.

3. Passenger-Only Ferry Terminal

- a. See KZC 83.360 for minimizing impacts when locating, designing, constructing and operating the use.
- b. Associated buildings and structures, other than the moorage structure for the ferry terminal, shall not be permitted over water.
- c. Equipment storage shall be conducted entirely within an enclosed structure.
- d. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum or hazardous products shall be provided.
- e. The City will make the determination if any parking and/or a passenger loading area will be required.

4. Water Taxi

- a. See KZC 83.360 for avoiding and minimizing impacts when locating, designing, constructing and operating the use.
- b. Equipment storage shall be conducted entirely within an enclosed structure.
- c. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum or hazardous products shall be provided.

5. Arterials, Collectors, and Neighborhood Access Streets and Bridges

- a. New street and bridge construction in shorelines jurisdiction shall be minimized and allowed only when related to and necessary for the support of permitted shoreline activities.
- b. Streets other than those providing access to approved shoreline uses shall be located away from the shoreline, except when no reasonable alternate location exists.
- c. Any street expansion affecting streams and waterways shall be designed to allow fish passage and minimize impact to habitat.

- d. Drainage and surface runoff from streets and street construction or maintenance areas shall be controlled so that pollutants will not be carried into water bodies.
- e. Streets within shorelines jurisdiction shall be designed with the minimum pavement area feasible.
- f. Streets shall be designed to provide frequent safe crossings for pedestrians and bicycles seeking access to public portions of the shoreline.
- g. Low impact development techniques shall be used where feasible for roadway or pathway and related drainage system construction.
- h. Street alignments shall be designed to fit the topography so that alterations to the natural site conditions will be minimized.
- i. New and expanded streets or bridges shall be designed to include pedestrian amenities, such as benches or viewing area and public sign systems, if an area is available for the improvement(s) and if there is a view or public access to the water from the area.
- j. Vegetation and street trees shall be selected and located so that they do not impair public views of the lake from public rights-of-way to the maximum extent feasible.
- k. Shoreline street ends may be used for public access or recreational purposes.
- l. Shoreline street ends shall not be vacated, except in compliance with RCW 35.79.035 or its successor, as well as KMC 19.16.090.

(Ord. 4251 § 3, 2010)

83.240 Utilities

1. General

- a. See KZC 83.360 for avoiding and minimizing impacts when locating, designing, constructing and operating the use.
- b. Whenever feasible, utility facilities shall be located outside the shoreline jurisdiction. Whenever these facilities must be placed in a shoreline area, the location shall be chosen so as not to adversely impact shoreline ecological functions or obstruct scenic views.
- c. Geothermal heat pumps are not permitted waterward of the OHWM.
- d.e. Utilities shall be located in existing rights-of-way and utility corridors wherever feasible.
- e.d. New utilities shall not be located waterward of the OHWM or in the Natural shoreline environment, unless it is demonstrated that no feasible alternative exists.
- f.e. Utility lines, pipes, conduits, cables, meters, vaults, and similar infrastructure and appurtenances shall be placed underground consistent with the standards of the serving utility to the maximum extent feasible.
- g.f. Proposals for new utilities or new utility corridors in the shoreline jurisdiction must fully substantiate the infeasibility of existing routes or alternative locations outside of the shoreline jurisdiction.
- h.g. Utilities that are accessory and incidental to a shoreline use shall be reviewed under the provisions of the use to which they are accessory.
- i.h. Utilities shall provide screening of facilities from the lake and adjacent properties in a manner that is compatible with the surrounding environment. The City will determine the type of screening on a case-by-case basis.

1.i. Utility development shall, through coordination with local government agencies, provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, or endanger public health and safety.

2. Construction and Maintenance

a. All shoreline areas disturbed by utility construction and maintenance shall be replanted and stabilized with approved vegetation by seeding, mulching, or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained until established.

b. Clearing of vegetation within utility corridors shall be the minimum necessary for installation, infrastructure maintenance and public safety.

c. Construction of pipelines placed under aquatic areas shall be placed in a sleeve in order to avoid the need for excavation in the event of a failure in the future.

d. Construction located near wetlands and streams shall use native soil plugs, collars or other techniques to prevent potential dewatering impacts.

e. See KZC 83.480 for conducting maintenance activities that minimize impacts.

3. Utility Production and Processing Facilities – Utility production and processing facilities not dependent on a shoreline location shall be located outside of the shoreline jurisdiction, unless it is demonstrated that no feasible alternative location exists.

4. Utility Transmission Facilities

a. Transmission facilities shall be located outside shorelines jurisdiction where feasible, and when necessarily located within shoreline areas, shall assure no net loss of shoreline ecological functions.

b. Pipelines transporting hazardous substances or other substances harmful to aquatic life or water quality are prohibited, unless it is demonstrated that no feasible alternative exists.

c. Sanitary sewers shall be separated from storm sewers.

5. Personal Wireless Service Facilities – Personal wireless service facilities shall use concealment strategies to minimize the appearance of antennas and other equipment from the lake and public pedestrian walkways or public use areas.

(Ord. 4251 § 3, 2010)

83.250 Land Division

1. New lots created through land division in shorelines jurisdiction shall only be permitted when the following standards are met:

a. The lots created will not require structural flood hazard reduction measures, such as dikes, levees, or stream channel realignment, during the life of the development or use.

b. The lots created will not require hard structural shoreline stabilization measures in order for reasonable development to occur, as documented in a geotechnical analysis of the site and shoreline characteristics.

c. The lots created will not result in an increased nonconforming shoreline setback.

c. In the Natural and Urban Conservancy shoreline environments, the lots created shall contain buildable land area located outside of the shoreland area.

2. Land division, except those for lot line adjustment and lot consolidation purposes, shall provide public access as required in KZC 83.420, unless otherwise excepted or modified under the provisions of KZC 83.420.
3. Land divisions shall establish a prohibition on new private piers and docks on the face of the plat. An area for joint use moorage may be approved if it meets all requirements for shared moorage in KZC 83.270.
4. The required view corridor and public access shall be established prior to recording of the land division consistent with KZC 83.410 and 83.420 and shall be depicted on the face of the recorded document.

(Ord. 4251 § 3, 2010)

Shoreline Modification Regulations

83.260 General

1. See KZC 83.360 for no net loss standard and mitigation sequencing for Conditional Use Permits or Variances, or where specific regulations for a proposed use or activity are not provided in this chapter such as marinas and multifamily piers.
2. See KZC 83.370 for federal and state approval required prior to submittal of a building permit.
3. See KZC 83.430 for in-water construction.
4. Structures must be designed to preclude moorage in locations that would have insufficient water depth to avoid boats resting on the substrate at any time of year.

(Ord. 4251 § 3, 2010)

83.270 Piers, Docks, Moorage Buoys and Piles, Boat Lifts and Boat Canopies Serving a Detached Dwelling Unit Use (Single-Family)

1. General
 - a. Piers, docks, moorage buoys and piles, boat lifts and canopies may only be developed and used accessory to existing dwelling units on waterfront lots or upland lots with waterfront access rights. Use of these structures is limited to the residents and guests of the waterfront lots to which the moorage is accessory and upland lots with legal lake access. Moorage space shall not be leased, rented, or sold unless otherwise approved as a marina under the provisions of KZC 83.290.
 - b. Only one (1) pier or dock may be located on a subject property.
 - c. In the following circumstances, a joint use pier shall be required:
 - 1) On lots subdivided to create one (1) or more additional lots with waterfront access rights.
 - 2) New residential development of two (2) or more dwelling units with waterfront access rights.
 - d. Piers, docks, boat lifts and moorage piles shall be designed and located to meet KZC 83.360 for no net loss standard and mitigation sequencing.
 - e. For proposed extension of structures waterward of the inner harbor line, see KZC 83.370.
2. Setbacks
 - a. All piers, docks, boat lifts and moorage piles for detached dwelling unit use shall comply with the following location standards:

New Pier, Dock, Boat Lift and Moorage Pile for Detached Dwelling Unit (Single-Family)	Minimum Setback Standards
Side property lines	5 ft. for moorage pile; otherwise 10 ft.
Another moorage structure not on the subject property, excluding adjacent moorage structure that does not comply with required side property line setback	25 ft., except that this standard shall not apply to moorage piles
Outlet of a stream regulated under KZC 83.510, including piped streams	Maximum distance feasible while meeting other required setback standards established under this section
Public park	25 ft., except that this standard shall not apply within the Urban Mixed shoreline environment

b. Joint-use structures may abut property lines provided the property owners sharing the moorage facility have mutually agreed to the structure location. To ensure that a pier or dock is shared, each property owner must sign a statement in a form acceptable to the City Attorney, stating that the pier or dock is used by the other property. The applicant must file this statement with the King County Recorder's Office to run with the properties.

3. General Standards

a. Proposed piers and docks that do not comply with the dimensional standards contained in this section ~~or cannot be permitted through the Administrative Approval for Alternative Design process in this section~~ may only be approved if they obtain a shoreline variance under the provisions of Chapter 141 KZC.

b. All piers and docks and other developments regulated by this section shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or repaired promptly by the owner.

c. Boats may not be temporarily or permanently moored within 30 feet of the OHWM.

~~ed.~~ Each pier shall contain a pier ladder for access into the lake.

~~f.c.~~ Temporary moorages shall be permitted for vessels used in the construction of shoreline facilities. The design and construction of temporary moorages shall be such that upon termination of the project, the aquatic habitat in the affected area can be returned to its original (pre-construction) condition.

~~f.d.~~ The following structures and improvements are not permitted:

- 1) Covered moorage, boathouses, or other walled covered moorage, except boat canopies that comply with the standards in this subsection.
- 2) Skirting on any structure.
- 3) Aircraft moorage.

4) Residential boat launches and boat rails.

~~hg.e.~~ See KZC 83.470 concerning lighting standards for required lighting.

h.f. Piers and docks must display the street address of the subject property. The address must be oriented to the lake with letters and numbers at least four (4) inches high.

~~i.~~ Piers and docks shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finish of all structures shall be generally nonreflective.

i. Must provide at least one (1) covered and secured waste receptacle located upland of the OHWM.

k. All utility and service lines located waterward of the OHWM must be affixed below the pier or dock deck and above the high-water-line.

l. All utility and service lines located upland of the OHWM shall be underground, where feasible. ~~A mooring buoy may be used to provide moorage space in lieu of a pier or dock.~~

m. A mooring buoy may be used to provide moorage space in lieu of a pier or dock. A moorage buoy is not permitted if the subject property contains a pier or a dock. No more than one (1) mooring buoy is permitted per detached dwelling unit. Water craft moored to a moorage buoy may be no closer than 30 feet from the OHWM and must have adequate water depth to prevent a moored boat from resting on the lakebed.

l. ~~Moorage buoys shall be in water depths of nine (9) feet or greater based on ordinary high water, unless the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife have approved an alternate proposal.~~

n. Pier bumpers are permitted if they meet the following standards:

Maximum pier bumper width allowed is 10 inches. Spacing between bumpers must be at least four feet on center, preferably lined up with the piles. Bumpers may not extend into the water more than 1.5 feet below the OHWM elevation. The number of bumpers allowed is the minimum necessary to prevent a boat from going under a pier along the mooring tie up area. Bumpers may only be located where a boat is permanently moored. A limited number of bumpers may also be permitted in a designated tie-up area for guest moorage.

4. New Pier or Dock Dimensional Standards

a. New piers or docks may be permitted, subject to the following regulations:

New Pier, Dock or Moorage Piles for Detached Dwelling Unit (Single-Family)	Dimensional and Design Standards
Maximum Area: surface coverage including all attached float decking, ramps, ells and fingers	<p>480 square feet for single property owner</p> <p>700 square feet for joint-use facility used by two (2) residential property owners-</p> <p>1,000 square feet for joint-use facility used by three (3) or more residential property owners</p> <p>These area limitations shall include platform lifts</p> <p>Where a pier or dock cannot reasonably be constructed under the area limitation above to obtain a moorage depth of 10 feet measured below ordinary high water, an additional four (4) square feet of area may be added for each additional foot of pier or dock length needed to reach 10 feet of water depth at the landward end of the pier or dock; provided, that all other area dimensions, such as maximum width and length, have been minimized.</p>
<p>Maximum Length for piers, docks, ells, fingers and attached floats (See Plates 47 and 48A/B)</p>	<p><u>No longer than the average of the adjacent neighboring piers, or 150 feet, whichever is less, except when a water depth adequate to prevent boats from sitting on the lakebed cannot be achieved within the average length of neighboring piers, it may extend to a maximum of 150'. If a length exceeding 150 feet is required to meet adequate depth a shoreline variance shall be required. But piers Piers or docks may extend up to a maximum of 10% of the average of the adjacent neighboring piers (see Plates 47 and 48A/B) but shall not exceed 150 feet. Piers or docks extending farther waterward than adjacent piers or docks up to 10% more than adjacent piers or docks must demonstrate that they will not have an adverse impact on navigation. The length of a pier or dock shall be measured from the furthest landward point of the OHWM.</u></p> <p>26 feet for ells</p> <p>20 feet for fingers and float decking attached to a pier</p>
<p><u>Maximum Area: surface coverage of a pier or docks, including all attached float decking, ramps, ells and fingers</u></p>	<p>480 square feet for single property owner</p> <p>700 square feet for joint-use facility used by two (2) residential property owners</p> <p>1,000 square feet for joint-use facility used by three (3) or more residential property owners</p> <p><u>These area limitations shall include platform lifts, but not boatlifts</u></p>

New Pier, Dock or Moorage Piles for Detached Dwelling Unit (Single-Family)	Dimensional and Design Standards
	<p>Where a pier or dock cannot reasonably be constructed under the area limitation above to obtain a moorage depth of 10 feet measured below ordinary high water adequate to prevent a boat from sitting on the lakebed, an additional four (4) square feet of area may be added for each additional foot of pier or dock length needed to reach 10 feet of water depth at the landward end of the pier or dock adequate depth; provided, that all other area dimensions, such as maximum width and length, have been minimized.</p>
Maximum Width	<p>Four (4) feet for pier or dock walkway or ramp</p> <p>Six (6) feet for ells</p> <p>Two (2) feet for fingers</p> <p>Six (6) feet for float decking attached to a pier</p> <p>For piers or docks with no ells or fingers perpendicular to the pier or dock, the most waterward 26-foot section of the walkway may be six (6) feet wide, <u>but within 30 feet from the OHWM no wider than four (4) feet.</u></p>
Height of piers and diving boards	<p>Minimum of 1.5 feet above ordinary high water to bottom of pier stringers, except the floating section of a dock and float decking attached to a pier</p> <p>Maximum of three (3) feet above deck surface for diving boards or similar features</p> <p>Maximum of three (3) feet above deck for safety railing and gates, which shall be an open framework</p>
Minimum Water Depth for ells and float decking attached to a pier	<p>Must be in water with depths of nine (9) feet or greater at the landward end of the ell or finger</p> <p>Must be in water with depths of 10 feet or greater at the landward end of the float</p>
Decking for piers, docks, walkways, platform lifts, ells and fingers	<p>Piers, docks, and platform lifts must be fully grated or contain other materials that allow a minimum of 40 percent light transmittance through the material</p> <p>If float tubs for docks preclude use of fully grated decking material, then a minimum of two (2) feet in width of grating down the center of the entire float shall be provided</p>
Location of ells, fingers and deck platforms	<p>No closer than 30 feet waterward of the OHWM, measured perpendicular to the OHWM, <u>and located near the terminal (waterward) end of the pier</u></p> <p>Within 30 feet of the OHWM, only the pier walkway or ramp is allowed</p>
Pier Pilings and Moorage Piles	<p>Pier Pilings and moorage piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds</p> <p>First set of <u>pier</u> pilings for a pier or dock shall be located no closer than 18 feet from OHWM</p> <p>Moorage piles shall be located no closer than 30 feet from the OHWM or any farther waterward than the end of the pier or dock</p> <p>Moorage buoys are not permitted when a pier or dock is located on a subject property</p> <p>Maximum two (2) moorage piles per detached dwelling unit, including existing piles</p> <p>Maximum four (4) moorage piles for joint use piers or docks, including existing piles</p>
Mitigation	Plantings or other mitigation as described in subsection (5) of this section

~~b.—The City shall approve the following modifications to a new pier proposal that deviates from the dimensional standards of subsection (4) of this section, subject to both U.S. Army Corps of Engineers and Washington Department of Fish and Wildlife approval to an alternate project design. In addition, the following requirements and all other applicable provisions in this chapter shall be met.~~

Administrative Approval for Alternative Design of New Pier or Dock for Detached Dwelling Unit (Single-Family)	Requirements
State and Federal Agency Approval	U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife have approved proposal
Maximum Area	No larger than authorized through state and federal approval
Maximum Width	Four (4) feet for portion of pier or dock located within 30 feet of the OHWM; otherwise, six (6) feet for walkways Otherwise, the pier and all components shall meet the standards noted in subsection (4)(a) of this section
Minimum Water Depth	No shallower than authorized through state and federal approval

~~With submittal of a building permit, the applicant shall provide documentation that the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife have approved the alternative proposal design.~~

5. Mitigation – All proposals involving new piers or docks are subject to the following mitigation requirements:
- a. Any existing in-water and overwater structures shall be removed ~~if they are associated with either a moorage structure or other recreational use that is located within 30 feet waterward of the OHWM~~, unless such structures are incorporated into the new pier or dock proposal and conform to the regulations in KZC 83.270. Any incorporated existing structure shall be considered part of the new structure for purposes of calculating allowed area.
 - b. Emergent vegetation shall be planted waterward of the OHWM along 75 percent of the shoreline frontage, unless the City determines that it is not appropriate or feasible.
 - c. Native riparian vegetation shall be planted in at least 75 percent of the nearshore riparian area located along the water's edge. The vegetated portion of the nearshore riparian area shall average 10 feet in depth landward from the OHWM, but may be a minimum of five (5) feet wide to allow for variation in landscape bed shape and plant placement. Total square feet of landscaped area shall be equal to a continuous 10-foot-wide area.
 - d. Joint-use piers or docks required under the provisions of this chapter, such as part of a shoreline subdivision, shall require a vegetative riparian zone along all properties sharing the pier or dock. ~~Other~~ Joint-use piers not required by this chapter shall be required to provide the same mitigation as required for one (1) property, which can be split evenly between the subject properties.
 - e. d. Mitigation plantings shall be subject to the following requirements:
 - 1) Mitigation plantings shall be native vegetation and shall consist of a mixture of trees, shrubs and groundcover designed to improve habitat functions. At least three (3) trees per 100 linear feet of shoreline and shrubs planted to attain coverage of at least 60 percent of area in two (2) years must be included in the plan. Plant materials must be selected from the Kirkland Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester. Plant density and spacing shall be appropriate for the site and commensurate with spacing recommended for each individual species proposed. ~~An alternative planting plan or mitigation measure in lieu of meeting these requirements shall be allowed if approved by other state and federal agencies.~~

In addition, the City shall accept existing native trees, shrubs and groundcover as meeting the requirements of this section, including vegetation previously installed as part of a prior development activity, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation. Existing non-native plants may remain but shall not be counted towards meeting the vegetation requirement.

2) Vegetation Placement – See the provisions contained in KZC 83.400, including the vegetation placement and alternative compliance provisions.

~~f. For properties containing bulkheads, native trees, shrubs and groundcover plantings shall include species which promote growth overhanging the water.~~

~~g.e-~~ In addition to a native planting plan, a 5-year vegetation maintenance and monitoring plan shall be prepared by a qualified professional approved by the Planning Official and submitted to the City for approval. The monitoring plan shall include the following elements:

- 1) Preparation of as-built drawings after installation of the mitigation plantings;
- 2) Annual monitoring reports for five (5) years that include written and photographic documentation of tree and shrub mortality, subject to the following success criteria:
 - a) One hundred (100) percent survival of all planted native trees, shrubs and ground cover during the first two (2) years after planting; and
 - b) One hundred (100) percent survival of trees and 80 percent survival of remaining native plants in years three (3) through five (5).

~~Copies of reports that are submitted to state or federal agencies in compliance with permit approvals may be submitted in lieu of a separate report to the City, provided that the reports address a 5-year maintenance and monitoring plan.~~

~~h.f.~~ Woody debris existing on-site or contributed to the site as part of the mitigation efforts shall not be removed.

6. Replacement of Existing Pier or Dock

a. A replacement of an existing pier or dock that is no larger than the existing structure shall meet the following requirements:

Replacement of Existing Pier or Dock for Detached Dwelling Unit (Single-Family)	Requirements
Replacement of entire existing pier or dock, including piles OR more than 50 percent of the pier-support piles and more than 50 percent of the decking or decking substructure (e.g., stringers)	Must meet the dimensional decking and design standards for new piers or dock as described in subsection (4)(a) of this section, except the City may administratively approve an alternative design described in subsection (6)(b) of this section.
Mitigation	The following improvements shall be removed: <ol style="list-style-type: none"> 1. Existing skirting shall be removed and may not be replaced. 2. Existing in-water and overwater structures located within 30 feet of the OHWM, other than the subject replacement pier. Existing in-water structures, such as boat lifts, may be shifted farther waterward to comply with this requirement. Existing or authorized shoreline stabilization measures may be retained.

~~b. — Alternative Design — The City shall approve the following modifications to a pier replacement proposal that deviates from the dimensional standards of subsection (4)(a) of this section, subject to both U.S. Army Corps of Engineers and Washington Department of Fish and Wildlife approval to an alternate project design. In addition, the following requirements and all other applicable provisions in this chapter shall be met.~~

Administrative Approval for Alternative Design of Replacement Pier or Dock for Detached Dwelling Unit (Single-Family)	Requirements
State and Federal Agency Approval	U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife have approved proposal
Maximum Area	No larger than existing pier or that allowed under subsection (4)(a) of this section, whichever is greater
Maximum Length	26 feet for fingers and float decking attached to a pier
	Otherwise, the pier and all components shall meet the standards noted in subsection (4)(a) of this section
Maximum Width	Four (4) feet for walkway or ramp located within 30 feet of the OHWM; otherwise, six (6) feet for walkways
	Eight (8) feet for ells and float decking attached to a pier
	For piers with no ells or fingers perpendicular to the pier, the most waterward 26-foot section of the walkway may be eight (8) feet wide Otherwise, the pier and all components shall meet the standards noted in subsection (4)(a) of this section
Minimum Water Depth	No shallower than authorized through state and federal approval

~~With submittal of a building permit, the applicant shall provide documentation that the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife have approved the alternative proposal design.~~

7. Additions to Pier or Dock – Proposals involving the addition to or enlargement of existing piers or docks, including replacement piers or docks that are larger than the existing structure, must comply with the requirements below. These provisions shall not be used in combination with the provisions for new or replacement piers contained in subsections (4) and (6) of this section.

Addition to Existing Pier or Dock for Detached Dwelling Unit (Single-Family)	Requirements
Addition or enlargement	Must demonstrate that there is a need for the enlargement of an existing pier or dock Examples of need include, but are not limited to, safety concerns or inadequate depth of water
Dimensional and other standards	Enlarged portions must comply with the new pier or dock standards for length and width, height, water depth , location, decking and pilings and for materials as described in subsection (4)(a) of this section
Decking for piers, docks, walkways, ells and fingers	Must convert an area of decking within 30 feet of the OHWM to grated decking equivalent in size to the additional surface coverage. Grated or other materials must allow a minimum of 40 percent light transmittance through the material
Mitigation	Planting and other mitigation as described in subsection (5) of this section

Addition to Existing Pier or Dock for Detached Dwelling Unit (Single-Family)	Requirements
	The following improvements shall be removed: 1. Existing skirting shall be removed and may not be replaced. 2. Existing in-water and overwater structures located within 30 feet of the OHWM shall be removed at a 1:1 ratio to the area of the addition, except for existing or authorized shoreline stabilization measures and ramp or walkway of the pier or dock being enlarged. 3. For the RSA zone, if two piers or docks or any other piers or docks, and covered boat moorage structures <u>are</u> located on the subject property, except for boat canopies that comply with this section, <u>they</u> must be removed. <u>The more non-conforming pier or dock must be removed.</u>

8. Repair of Existing Pier or Dock

a. Repair proposals that replace only decking or decking substructure and less than 50 percent of the existing pier-support piles, and for which it has been at least five years since a repair proposal for the same pier or dock, must comply with the following regulations. Proposals where additional repairs are sought within five years of a previous proposal that cumulatively exceed these thresholds shall be regulated under the provisions for replacement of piers or docks in subsection (6) of this section:

Minor Repair of Existing Pier or Dock for Detached Dwelling Unit (Single-family)	Requirements
Replacement pilings or moorage piles	Must use materials as described under subsection (4) of this section Must minimize the size of pilings or moorage piles and maximize the spacing between pilings to the extent allowed by site-specific engineering or design considerations
Replacement of 50 percent or more of the decking OR 50 percent or more of decking substructure	Must replace any solid decking surface of the pier or dock located within 30 feet of the OHWM with a grated surface material that allows a minimum of 40 percent light transmittance through the material. <u>New decking shall comply with the pier dimensional standards of 83.270.4 to the maximum extent feasible.</u>
<u>Cross bar anchors</u>	<u>May be used to stabilize a pier, provided that the anchors are located at the deepest end of the pier</u>

b. Other repairs to existing legally established moorage facilities where the nature of the repair is not described in the above subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If cumulative repairs of an existing pier or dock would make a proposed repair exceed the threshold for a replacement pier established in subsection (5) of this section, the repair proposal shall be reviewed under subsection (4) of this section for a new pier or dock, ~~except as described in subsection (5)(b) of this section for administrative approval of alternative design.~~

9. Boat Lifts and Boat Lift Canopies – Boat lifts and boat lift canopies may be permitted as an accessory to piers and docks, subject to the following regulations:

Boat Lift and Boat Canopy for Detached Dwelling Unit (Single-Family)	Requirements
Location	Boat lifts shall be placed as far waterward of the OHWM as feasible and safe, within the limits of the dimensional standards for piers or docks established in subsection (4) of this section Bottom of a boat lift canopy shall be elevated above the boat lift to the maximum extent feasible, the lowest edge of the canopy must

Boat Lift and Boat Canopy for Detached Dwelling Unit (Single-Family)	Requirements
	be at least four (4) feet above the ordinary high water mark, and the top of the canopy must not extend more than 12 ^{seven (7)} feet above an associated pier
Maximum Number	One ^{Two (2)} freestanding or deck-mounted boat lifts per detached dwelling unit Two (2) jet ski lifts or one (1) fully grated platform lift per detached dwelling unit One (1) boat lift canopy per detached dwelling unit
Canopy Materials	Must be made of translucent fabrie materials
Fill for Boat Lift	Maximum of two (2) cubic yards of fill are permitted to anchor a boat lift, subject to the following requirements: <ul style="list-style-type: none"> • May only be used if the substrate prevents the use of anchoring devices that can be embedded into the substrate • Must be clean • Must consist of rock or pre-cast concrete blocks • Must only be used to anchor the boat lift • Minimum amount of fill is utilized to anchor the boat lift

(Ord. 4491 § 11, 2015; Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.280 Piers, Docks, Moorage Buoys, Boat Lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units (Multifamily)

1. General

a. Piers, docks, moorage buoy and pier piles, boat lifts and canopies may only be developed and used accessory to existing dwelling units on waterfront lots or upland lots with waterfront access rights.

b. Use of these structures is limited to the residents and guests of the waterfront lots or upland lots with legal lake access rights to which the moorage is accessory. Moorage space shall not be leased, rented, or sold unless otherwise approved as a marina under the provisions of KZC 83.290.

~~c.~~ Only one (1) pier or dock may be located on a subject property.

~~d.e.~~ See KZC 83.360 for no net loss standard and mitigation sequencing.

~~e.~~ Boats may not be temporarily or permanently moored within 30 feet of the OHWM.

~~f.~~ Each pier or dock shall contain a pier ladder for access into the lake.

~~g.~~ See KZC 83.370 for structures to be extended waterward of the inner harbor line.

2. Setbacks – All piers, docks, boat lifts and moorage piles serving detached, attached or stacked dwelling units shall comply with the following setback standards:

New Pier, Dock, Boat Lift and Moorage Pile for Detached, Attached or Stacked Dwelling Units (Multifamily)	Minimum Setback Standards
From side property lines	Five (5) feet for moorage pile; otherwise 10 feet

New Pier, Dock, Boat Lift and Moorage Pile for Detached, Attached or Stacked Dwelling Units (Multifamily)	Minimum Setback Standards
From lot containing a detached dwelling unit	The area defined by a line that starts where the OHWM of the lot (containing a detached dwelling unit) intersects the side property line of the lot (containing the side property line) closest to the moorage structure and runs waterward toward the moorage structure and extends at a 30-degree angle from that side property line. This setback applies whether or not the subject property abuts the lot, but does not extend beyond any intervening overwater structure. This standard shall not apply within the Urban Mixed shoreline environment.
From another moorage structure not on the subject property, excluding adjacent moorage structure that does not comply with required side property lines setback that intersect the OHWM	25 feet, except that this provision shall not apply to moorage piles
From outlet of a stream regulated under KZC 83.510, including piped streams	Maximum distance feasible while meeting other required setback standards established under this section
From public park	100 feet; or The area defined by a line that starts where the OHWM of the park intersects with the side property line of the park closest to the moorage structure and extends at a 45-degree angle from the side property line. This setback applies whether or not the subject property abuts the park, but does not extend beyond any intervening overwater structure. This standard shall not apply within the Urban Mixed shoreline environment.

3. Number of Moorage Spaces – The City will limit the total number of moorage slips to one (1) per each dwelling unit on the subject property. In addition, each unit shall be allowed to moor jet skis or kayaks or similar watercraft on the property.

4. General Standards

- a. Must provide at least two (2) covered and secured waste receptacles upland of the OHWM.
- b. All utility and service lines located waterward of the OHWM must be affixed below the pier or dock deck and above the ordinary high water line. All utility and service lines located upland of the OHWM shall be underground, where feasible.
- c. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night.
- d. Exterior finish shall be generally nonreflective.
- e. Moorage structures must display the street address of the subject property. The address must be oriented to the lake with letters and numbers at least four (4) inches high.
- f. See KZC 83.470, Lighting, for required lighting.
- g. See KZC 83.420, Public Access, for required public access.
- h. A mooring buoy may be used to provide moorage space in lieu of a pier. No more than two (2) mooring buoys or a number equal to 10 percent of the dwelling units on the subject property, whichever is greater, is permitted. Water craft moored to a moorage Mooring-buoys shall be no closer than 30 feet from the OHWM and have a water depth that prevents moored boats from resting on the lakebed in water depths of nine (9) feet or greater based on ordinary high water, unless the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife have approved an alternate proposal.

i. Pier bumpers are permitted if they meet the following standards

Maximum pier bumper width allowed is 10 inches. Spacing between bumpers must be at least four feet on center. Bumpers may not extend into the water more than 1.5 feet below the OHWM. The number of bumpers allowed is the minimum necessary to prevent a boat from going under a pier along the mooring tie up area. Bumpers may only be located where a boat is permanently moored. A limited number of bumpers may also be permitted in a designated tie-up area for guest moorage.

ii. The following structures and improvements are not permitted:

- 1) Covered moorage, boathouses, or other walled covered moorage, except boat canopies that comply with the standards in this subsection.
- 2) Skirting on any structure.
- 3) Aircraft moorage.

4) Residential boat launches and boat rails.

5. New Pier or Dock Dimensional Standards

a. Moorage structures shall not be larger or longer than is necessary to provide safe and reasonable moorage for the boats to be moored. The length of the moorage structure shall be no greater than nearby structures based on the number of moorage slips. The length of the pier shall be measured from the most landward point of the OHWM.

The City will specifically review the size, length and configuration of each proposed moorage structure to help ensure that:

- 1) The moorage structure does not extend waterward beyond the point necessary to provide reasonable draft for the boats to be moored, but not beyond the outer harbor line;
- 2) The moorage structure is not larger than is necessary to moor the specified number of boats;
- 3) The moorage structure will not interfere with the public use and enjoyment of the water or create a hazard to navigation; and
- 4) The moorage structure will not have a significant long-term adverse effect on ecological functions.

5) The moorage structure design will prevent boats from sitting on the lakebed.

b. Piers and docks shall be the minimum size necessary to meet the needs of the proposed water-dependent use and shall observe the following standards:

New Pier, Dock or Moorage Piles for Detached, Attached or Stacked Dwelling Units (Multifamily)	Dimensional and Design Standards
Maximum Width	Four (4) feet within 30 feet of the OHWM for pier, dock walkway, ramp or floating deck Six (6) feet for pier or dock walkway more than 30 feet waterward of the OHWM Eight (8) feet for ells Four (4) feet for fingers, and shall be reduced to two (2) feet in those instances where the projection provides secure boat moorage but is not necessary for boat-user access Six (6) feet for float decking attached to a pier

New Pier, Dock or Moorage Piles for Detached, Attached or Stacked Dwelling Units (Multifamily)	Dimensional and Design Standards
	An alternative design in lieu of meeting these requirements shall be allowed if approved by other state and federal agencies.
Height of piers and diving boards	Minimum of 1.5 feet above ordinary high water to bottom of pier stringers, except the floating section of a dock and float decking attached to a pier Maximum of three (3) feet above deck for diving boards or similar features above the deck surface Maximum of three (3) feet above deck for safety railing and gates, which shall be an open framework
Minimum Water Depth for ells and float decking attached to a pier	Must be in water with depths of nine (9) feet or greater at the landward end of the ell or finger Must be in water with depths of 10 feet or more at the landward end of the float An alternative design in lieu of meeting these requirements shall be allowed if approved by the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife
Decking for piers, docks, walkways, platform lifts, ells and fingers	Must be fully grated or contain other materials that allow a minimum of 40 percent light transmittance through the material If float tubs for docks preclude use of fully grated decking material, then a minimum of two (2) feet of grating down the center of the entire float shall be provided
Location of ells, fingers and deck platforms	No closer than 30 feet waterward of the OHWM, measured perpendicular to the OHWM, <u>and located near the terminal (waterward) end of the pier</u> Within 30 feet of the OHWM, only access walkway or ramp portion of pier or dock is allowed
Pier Pilings and Moorage Piles	<u>Pier</u> Pilings or moorage piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds First set of pilings for a pier or dock shall be located no closer than 18 feet from OHWM. Moorage piles shall be located no closer than 30 feet from the OHWM or any farther waterward than the end of the pier or dock.
Mitigation	Plantings and other mitigation as described in subsection (6) of this section

6. Mitigation – All proposals involving new piers or docks are subject to the following mitigation requirements:

a. Any existing in-water and overwater structures shall be removed if they are associated with either a moorage structure or other recreational use that is located within 30 feet of the OHWM, unless such structures are incorporated into the new pier or dock proposal and conform to the regulations in this section. Any incorporated existing structure is considered part of the new structure for purposes of calculating allowed area.

b. Emergent vegetation shall be planted waterward of the OHWM along 75 percent of the shoreline frontage, unless the City determines that it is not appropriate or feasible.

c. For properties containing bulkheads, native trees, shrubs and groundcover plantings shall include species which promote growth overhanging the water.

d. Native riparian vegetation shall be planted in at least 75 percent of the nearshore riparian area located along the water's edge. The vegetated portion of the nearshore riparian area shall average 10 feet in depth

upland from the OHWM, but may be a minimum of five (5) feet wide to allow for variation in landscape bed shape and plant placement. Total square feet of landscaped area shall be equal to a continuous 10-foot-wide area.

e. Joint-use piers will require a vegetative riparian zone along all properties sharing the pier.

f. Mitigation plantings shall be subject to the following requirements:

1) Mitigation plantings shall be native vegetation and shall consist of a mixture of trees, shrubs and groundcover designed to improve habitat functions. At least three (3) trees per 100 linear feet of shoreline and shrubs planted to attain coverage of at least 60 percent of area in two (2) years must be included in the plan. Plant materials must be selected from the Kirkland Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester. Plant density and spacing shall be appropriate for the site and commensurate with spacing recommended for each individual species proposed.

2) ~~An alternative planting plan or mitigation measure in lieu of meeting these requirements shall be allowed if approved by other state and federal agencies. In addition, †~~The City shall accept existing native trees, shrubs and groundcover as meeting the requirements of this section, including vegetation previously installed as part of a prior development activity; provided, that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation. Existing non-native plants may remain but shall not be counted towards meeting the vegetation requirement.

3) Vegetation Placement – See the provisions contained in KZC 83.400.

4) In addition to a native planting plan, a 5-year vegetation maintenance and monitoring plan shall be prepared by a qualified professional approved by the Planning Official and submitted to the City for approval. The monitoring plan shall include the following elements:

a) Preparation of as-built drawings after installation of the mitigation plantings;

b) Annual monitoring reports for five (5) years, that include written and photographic documentation on tree and shrub mortality, subject to the following success criteria:

1) One hundred (100) percent survival of all planted native trees and shrubs during the first two (2) years after planting; and

2) One hundred (100) percent survival of trees and 80 percent survival of remaining native plants in years three (3) through five (5).

~~Copies of reports that are submitted to state or federal agencies in compliance with permit approvals may be submitted in lieu of a separate report to the City, provided that the reports address a 5-year maintenance and monitoring plan.~~

5) Woody debris existing on-site or contributed to the site as part of the mitigation efforts shall not be removed.

7. Replacement, Additions and Repairs

a. Replacement – Replacement of piers and docks serving detached, attached or stacked dwelling units shall be considered under the provisions for new piers and docks serving detached, attached or stacked dwelling units established in subsection (5) of this section when the entire existing pier or dock is replaced, including piles or when more than 50 percent of the pier-support piles and more than 50 percent of the decking or decking substructure is replaced (e.g., stringers). When the replacement pier or dock is not larger than the existing structure, no mitigation is required. However, when the replacement structure is larger than the existing structure, the mitigation requirements that apply to additions to piers and docks in subsection (7)(b) of this section shall be met.

b. Additions – Proposals involving the addition to or enlargement of existing piers or docks, including replacement piers or docks that are larger than the existing structure, must comply with the following measures:

Additions to Pier, Dock or Moorage Piles for Detached, Attached or Stacked Dwelling Units (Multifamily)	Requirements
Addition or enlargement	Must demonstrate that there is a need for the enlargement of an existing pier or dock
Dimensional standards	Enlarged portions must comply with the new pier or dock dimensional standards for length, width, height, water depth, location, decking material and pilings and for materials as described in subsection (5) of this section
Decking for piers, docks, walkways, ells and fingers	Must convert an area of existing decking within 30 feet of the OHWM with grated decking equivalent in size to the additional surface coverage. Grated or other materials must allow a minimum of 40 percent light transmittance through the material
Mitigation	Plantings and other mitigation as described in subsection (6) of this section The following improvements shall be removed: <ol style="list-style-type: none"> 1. Existing skirting shall be removed and may not be replaced. 2. Existing in-water and overwater structures located within 30 feet of the OHWM shall be removed at a 1:1 ratio to the area of the addition, except for existing or authorized shoreline stabilization measures and pier or dock walkways or ramps. 3. For the RMA zone, any other piers or docks and covered boat moorage structures located on the subject property, except for boat canopies that comply with this section, must be removed. <u>If two piers exist on the subject property, the more non-conforming shall be removed.</u>

c. Repair – Repair proposals that replace only decking or decking substructure and less than 50 percent of the existing pier-support piles must comply with the ~~following:~~ following:

Minor Repair to Pier, Dock or Moorage Piles for Detached, Attached or Stacked Dwelling Units (Multifamily)	Requirements
Replacement pilings or moorage piles	Must use materials as described under subsection (5) of this section Must minimize the size of pilings or moorage piles and maximize the spacing between pilings to the extent allowed by site-specific engineering or design considerations
Replacement of 50 percent or more of the decking OR 50 percent or more of decking substructure	Must replace any solid decking surface of the pier or dock located within 30 feet of the OHWM with a grated surface material that allows a minimum of 40 percent light transmittance through the material. <u>New decking shall comply with the pier dimensional standards of 83.280.5 to the maximum extent feasible.</u>

Other repairs to existing legally established moorage facilities where the nature of the repair is not described in the above subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If cumulative repairs of an existing pier or dock would make a proposed repair exceed the threshold established in subsection (7)(c) of this section, the repair proposal shall be reviewed under this section for a new pier or dock.

8. Boat Lifts and Boat Lift Canopies for Serving Detached, Attached or Stacked Dwelling Units – Boat lifts and boat lift canopies may be permitted as an accessory to piers and docks, subject to the following regulations:

Boat Lift and Boat Canopy for Detached, Attached or Stacked Dwelling Units (Multifamily)	Regulations
Location	Boat lifts shall be placed as far waterward of the OHWM as feasible and safe, within the limits of the dimensional standards for piers and docks established in subsection (5) of this section Bottom of a boat lift canopy shall be elevated above the boat lift to the maximum extent feasible, the lowest edge of the canopy must be at least four (4) feet above the ordinary high water mark and the top of the canopy must not extend more than 12 <u>seven (7)</u> feet above an associated pier.
Maximum Number	One (1) freestanding or deck-mounted boat lift is allowed per dwelling unit on the subject property Two (2) jet ski lifts or one (1) fully grated platform lift is permitted per dwelling unit on the subject property Two (2) boat lift canopies or equal to 10 percent of the dwelling units on the subject property, whichever is greater
Canopy Materials	Must be made of translucent fabrie materials
Fill for Boat Lift	Maximum of two (2) cubic yards of fill are permitted to anchor a boat lift, subject to the following requirements: <ul style="list-style-type: none"> • May only be used if the substrate prevents the use of anchoring devices that can be embedded into the substrate • Must be clean • Must consist of rock or pre-cast concrete blocks • Must only be used to anchor the boat lift • Minimum amount of fill is utilized to anchor the boat lift

9. Submittal Requirements – In addition to submitting an application to construct a new, enlarged or replacement pier or dock, the applicant shall submit an assessment of the impacts and measures taken to avoid, minimize, and mitigate impacts. See KZC 83.360 for requirements on mitigation sequencing.

(Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.290 Marinas and Moorage Facilities Associated with Commercial Uses and Public Parks

1. General

- a. Marinas shall not be approved in cases where it is reasonably foreseeable that the development or use would require maintenance dredging and/or installation of a breakwater during the life of the development or use.
- b. See KZC 83.370 for structures to be extended waterward of the inner harbor line.
- c. Marinas shall be designed and located according to the following criteria:
 - 1) Shall not interfere with the public use and enjoyment of the water or create a hazard to navigation;
 - 2) Shall meet KZC 83.360 for mitigation sequencing; and
 - 3) Shall be located only at sites with sufficient water depth, adequate navigational and vehicular access, and not adjacent to an outlet of a stream.

d. For public parks, also see KZC 83.220.5

2. Setback – Marinas and moorage facilities shall comply with the following location standards:

Marinas and Moorage Facilities Associated with Commercial Uses <u>and Public Parks</u>	Minimum Setback Standards
From side property lines	10 feet
From lot containing a detached dwelling unit	The area defined by a line that starts where the OHWM of the lot (containing a detached dwelling unit) intersects the side property line of the lot (containing a detached dwelling unit) closest to the moorage structure and runs waterward toward the moorage structure and extends at a 30-degree angle from that side property line. This setback applies whether or not the subject property abuts the lot, but does not extend beyond any intervening overwater structure. This standard shall not apply within the Urban Mixed shoreline environment.
From another moorage structure not on the subject property, excluding adjacent moorage structure that does not comply with required side property lines setback that intersect the OHWM	25 feet
From outlet of a stream regulated under KZC 83.510, including piped streams	Maximum distance feasible while meeting other required setback standards established under this section
From public park	100 feet; or The area defined by a line that starts where the OHWM of the park intersects with the side property line of the park closest to the moorage structure and extends at a 45-degree angle from the side property line. This setback applies whether or not the subject property abuts the park, but does not extend beyond any intervening overwater structure. This standard shall not apply within the Urban Mixed shoreline environment.

3. Number of Moorage Slips – The City will determine the maximum allowable number of moorages based on the following factors:

- a. The suitability of the environmental conditions, such as, but not limited to: the presence of submerged aquatic vegetation, proximity to shoreline associated wetlands, critical nesting and spawning areas, water depth, water circulation, sediment inputs and accumulation, and wave action.
- b. The ability of the land upland of the OHWM to accommodate the necessary support facilities.
- c. The demand analysis submitted by the applicant to demonstrate anticipated need for the requested number of moorages.

4. General Standards

- a. See KZC 83.370 for required state and federal approval.
- b. Structures, other than approved moorage structures or public access piers, shall not be waterward of the OHWM. For regulations regarding public access piers, see KZC 83.220.
- c. At least ~~two~~one (2~~1~~) covered and secured waste receptacles shall be provided upland of the OHWM.
- d. Utility and service lines located waterward of the OHWM must be affixed below the pier deck and above the ~~ordinary high~~ water line. Utility and service lines located upland of the OHWM shall be underground, where feasible.
- e. Public restrooms shall be provided upland of the OHWM.
- f. At least one (1) pump-out facility for use by the general public shall be provided if another facility is not already located nearby. This facility must be easily accessible to the general public and clearly marked for public use.

f.g. Transient moorage may be required as part of a marina if the site is in an area near commercial facilities generating commercial transient moorage demand.

g.h. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night.

h.i. Exterior finish shall be generally nonreflective.

i.j. Moorage structures must display the street address of the subject property. The address must be oriented to the lake with letters and numbers at least four (4) inches high.

j.k. See KZC 83.470 concerning standards for required lighting.

k.l. See KZC 83.420 concerning required public access.

l.m. Covered moorage, including boat lift canopies, is not permitted.

m.n. Aircraft moorage is not permitted, except as associated with an approved float plane landing and mooring facility.

n.o. Marinas and other moorage facilities associated with commercial uses shall be designed and operated consistent with federal and state water quality laws and established best management practices (BMPs) for marina operators, including BMPs for bilge water discharge, hazardous waste, waste oil and spills, sewer management, and spill prevention and response. Rules for spill prevention and response, including reporting requirements, shall be posted on site.

o.p. Boats moored within marinas shall comply with the mooring restrictions contained in Chapter 14.16 KMC.

q. Pier bumpers are permitted if they meet the following standards

Maximum pier bumper width allowed is 10 inches. Spacing between bumpers must be at least four feet on center. Bumpers may not extend into the water more than 1.5 feet below the OHWM. The number of bumpers allowed is the minimum necessary to prevent a boat from going under a pier along the mooring tie up area. Bumpers may only be located where a boat is permanently moored. A limited number of bumpers may also be permitted in a designated tie-up area for guest moorage.

5. New Pier or Dock Dimensional Standards

a. Moorage structures shall not be larger than is necessary to provide safe and reasonable moorage for the boats to be moored. The City will specifically review the size and configuration of each proposed moorage structure to help ensure that:

- 1) The moorage structure does not extend waterward beyond the point necessary to provide reasonable draft for the boats to be moored, but not beyond the outer harbor line;
- 2) The moorage structure is not larger than is necessary to moor the specified number of boats; and
- 3) The moorage structure must be designed to preclude moorage in locations that would have insufficient water depth to avoid boats resting at any time of year on the substrate of the lake.

b. For public access piers, docks or boardwalks associated with public parks and other public facilities see KZC 83.220~~(5)~~ for allowed width of the structure.

c. Piers and docks shall be the minimum size necessary to meet the needs of the proposed water-dependent use and shall meet the following dimensional and design standards:

New Marinas and Moorage Facilities Associated with Commercial Uses <u>and Public Parks</u>	Dimensional and Design Standards
Maximum Width	Six (6) feet for access walkway or ramp portion of pier or dock and primary walkways Eight (8) feet for ells Four (4) feet for fingers, and shall be reduced to two (2) feet in those instances where the projection provides secure boat moorage but is not necessary for boat-user access Six (6) feet for float decking attached to a pier An alternative design in lieu of meeting these requirements may be allowed if approved by other state and federal agencies-
Height of piers, diving boards and railings	Minimum of 1.5 feet above ordinary high water to bottom of pier stringer, except the floating section of a dock and float decking attached to a pier Maximum of three (3) feet above deck for diving boards or similar features above the deck surface Maximum of three (3) feet above deck for safety railing and gates, which shall be an open framework
Decking for piers, docks walkways, ells and fingers	Fully grated or contain other materials that allow a minimum of 40 percent light transmittance through the material If float tubs for docks preclude use of fully grated decking material, then a minimum of two (2) feet width of grating down the center of the entire float shall be provided
Location of ells, fingers and deck platforms	No closer than 50 feet waterward of the OHWM, measured perpendicular to the OHWM Within 50 feet of the OHWM, only access walkway or ramp portion of pier or dock is allowed An alternative design in lieu of meeting these requirements may be allowed if the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife have approved an alternate proposal.
Pier Pilings	First set of <u>pier</u> pilings for the moorage facility located no closer than 18 feet from OHWM Moorage piles shall be no closer than 30 feet from the OHWM or any father waterward than the end of the pier. Pier Pilings or <u>moorage</u> piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds
Mitigation	As required through mitigation sequencing in KZC 83.360

6. Replacement, Additions and Repairs

a. Replacement – Replacement of marinas or portions thereof shall be considered under the provisions for new marinas established in subsection (5) of this section. However, the mitigation requirement for additions to marina facilities associated with commercial uses in subsection (6)(b) of this section shall be met and not mitigation requirements for new marinas and moorage facilities associated with commercial uses in subsection (5) of this section.

b. Additions – Proposals involving the modification and/or enlargement of marinas must comply with the following measures:

Additions to Marinas and Moorage Facilities Associated with Commercial Uses <u>and Public Parks</u>	Requirements
Addition or enlargement	Must demonstrate that there is a need for the enlargement of an existing pier or dock

Additions to Marinas and Moorage Facilities Associated with Commercial Uses, <u>and Public Parks</u>	Requirements
Dimensional standards	Enlarged portions must comply with the new pier dimensional standards for pier or dock length and width, height, water depth, location, decking and pilings and for materials
Decking for piers, docks, walkways, ells and fingers	Must convert an area of existing decking within 30 feet of the OHWM to grated decking equivalent in size to the additional surface coverage that allows a minimum of 40 percent light transmittance through the material
Mitigation	As determined through mitigation sequencing in KZC 83.360 Existing skirting shall be removed and may not be replaced Existing in-water and overwater structures located within 50 feet of the OHWM, except for existing or authorized shoreline stabilization measures or pier or dock walkways or ramps, shall be removed at a 1:1 ratio to the area of the addition

c. Repair – Repair proposals that replace only decking or decking substructure and are less than 50 percent of the existing pier-support piles must comply with the following:

Minor Repair to Marinas and Moorage Facilities Associated with Commercial Uses, <u>and Public Parks</u>	Requirements
Replacement <u>pier</u> pilings or moorage piles	Must use materials as described under subsection (5) of this section Must minimize the size of <u>pier</u> pilings or moorage piles and maximize the spacing between pilings to the extent allowed by site-specific engineering or design considerations
Replacement of 10 percent or more of the decking or decking substructure	Must replace any solid decking surface of the pier or dock located within 30 feet of the OHWM with a grated surface material. <u>New decking shall comply with the pier dimensional standards of 83.290.5 to the maximum extent feasible.</u>
Repair of the roof structure of existing boathouses or other similar covered moorage	Must use translucent materials

Other repairs to existing legally established marinas where the nature of the repair is not described in the above subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If cumulative repairs of an existing marina would make a proposed repair exceed the threshold established in subsection (6)(c) of this section, the repair proposal shall be reviewed under this section for a new marina.

7. Submittal Requirements – In addition to submitting an application, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement marina or its associated facilities:

- a. An assessment of the anticipated need for the requested number of moorages and ability of the site to accommodate the proposal, considering such factors as environmental conditions, shoreline configuration, access, and neighboring uses.
- b. An assessment of the impacts and measures taken to avoid, minimize, and mitigate impacts. See KZC 83.360 for mitigation sequencing.

(Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.300 Shoreline Stabilization

1. General

- a. The standards in this section apply to all developments and uses in shorelines jurisdiction.

- b. New development or redevelopment shall be located and designed to avoid the need for new or future soft or hard structural shoreline stabilization to the extent feasible.
- c. If structural stabilization is necessary to protect the primary structure, then the feasibility of soft structural measures shall be evaluated prior to consideration of hard structural measures. Soft structural stabilization measures must be used unless the City determines that it is not feasible based on information required in this section and provided by the applicant.
- d. Soft shoreline stabilization may include the use of gravels, cobbles, occasional habitat boulders, and logs, as well as vegetation.
- e. Plates 43A and 43B provides guidance on different shoreline stabilization measures that may be considered, based upon the unique characteristics of the subject property and shoreline.
- f. During construction or repair work on a shoreline stabilization measure, areas of temporary disturbance within the shoreline setback shall be restored as quickly as feasible to their pre-disturbance condition or better to avoid impacts to the ecological function of the shoreline. Also see KZC 83.430 for in-water construction activity.
- g. The following is a summary of the key requirements found in subsections (2) through (13) of this section:

Shoreline Stabilization Measures	Requirements
Structural and Nonstructural Methods	Nonstructural methods preferred, but if there is a demonstrated need for a structural stabilization measure to protect primary structure, then soft structural stabilization must be considered prior to hard structural stabilization
New or Enlargement of Hard Shoreline Structural Measures (enlargement includes additions and increases in size, such as height, width, length, or depth, to existing shoreline stabilization measures) <i>(See subsections (2)(a) and (b), (3)(a) and (b), (8), (9), (10) and (11) of this section)</i>	Allowed when existing primary structure is 10 feet or less from OHWM When existing primary structure is greater than 10 feet from OHWM, requires geotechnical report to show need, an evaluation of the feasibility of soft rather than hard structural shoreline stabilization measures and design recommendations for minimizing structural shoreline measures Requires mitigation plantings
Major Repair or <u>Major Replacement</u> of Hard Shoreline Structural Measures <i>(See subsections (4), (5), (8), (9), (10) and (12) of this section)</i>	A major repair is repair of a collapsed or eroded structure or a demonstrated loss of structural integrity, or repair of toe rock or footings of more than 50 percent in continuous linear length; or A major repair is repair to more than 75 percent of the linear length of structure that involves replacement of top or middle course rocks or other similar repair Allowed when existing primary structure is 10 feet or less from OHWM When existing primary structure is more than 10 feet from the OHWM, requires a written narrative that provides a demonstration of need
Minor Repair or <u>Minor Replacement</u> of Hard Shoreline Stabilization Measure <i>(See subsections (6), (9) and (10) of this section)</i>	Does not meet threshold of new, enlarged, major repair or replacement measurement No geotechnical report or needs assessment required
New or Enlarged of Soft Shoreline Stabilization Measure <i>(See subsections (2)(a) and (b), (3)(b), (8), (9), (10) and (13) of this section)</i>	Allowed when existing primary structure is 10 feet or less from OHWM or for repair or replacement. For primary structure greater than 10 feet from the OHWM, new or enlarged requires a written narrative that provides a demonstration of need
Repair or Replacement of Soft Shoreline Stabilization Measure or Replacement of Hard to Soft Shoreline Stabilization Measure	No demonstration of need required; provided, that replacement or repair is an equal or softer measure than existing measure

Shoreline Stabilization Measures	Requirements
<i>(See subsections (7), (8), (9), (10) and (13) of this section)</i>	

2. New or Enlarged Structural Shoreline Stabilization

a. For the purposes of this section, enlargement of an existing structural stabilization shall include additions to or increases in size (such as height, width, length, or depth). Primary structure includes appurtenances listed under WAC 173-27-040, but not tool sheds, greenhouses, swimming pools, spas and other ancillary residential improvements listed in KZC 83.80(5).

b. When allowed:

The City may only approve a new or enlarged hard or soft structural stabilization measure in the following circumstances:

1) To protect an existing primary structure, including a detached dwelling unit, in either of the following circumstances:

- a) The existing primary structure is located 10 feet or less from the OHWM. For the purposes of this provision, the distance shall be measured to the most waterward location of the primary structure. No geotechnical analysis or needs assessment is required; or
- b) The existing primary structure is located more than 10 feet from the OHWM.

In order to be approved, the applicant must demonstrate the following:

- 1) For new or enlarged hard structural stabilization, conclusive evidence, documented by a geotechnical analysis that the primary structure is in danger from shoreline erosion caused by waves. The analysis must show that there is a significant possibility that an existing primary structure will be damaged within three (3) years as a result of shoreline erosion in the absence of hard structural stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three (3) years, the report may still be used to justify more immediate authorization to protect against erosion using soft structural stabilization measures.
 - 2) For new soft structural stabilization measures, demonstrate need for structural stabilization to protect the existing primary structure.
 - 3) For hard and soft stabilization measures, any on-site drainage issues have been directed away from the shoreline edge prior to considering structural stabilization.
 - 4) For hard and soft shoreline stabilization measures, nonstructural measures, such as planting vegetation, or installing on-site drainage improvements are shown not to be feasible or sufficient to protect the primary structure.
- 2) To protect a new primary structure, including a detached dwelling unit, when all of the conditions below apply:
- a) For new non-water-dependent uses, placing the new primary structure farther upland from the OHWM is not feasible or not sufficient to prevent damage to the primary structure;
 - b) Upland conditions, such as drainage problems and the loss of vegetation, are not causing the erosion;

- c) Nonstructural measures, planting vegetation, or installing on-site drainage improvements are shown not to be feasible or sufficient to prevent damage to the primary structure; and
 - d) The need to protect the new primary structures from potential damage is due to erosion from wave action. For hard structural stabilization measures, a geotechnical report must be submitted demonstrating need. For soft structural stabilization measures, an assessment by a qualified professional must be submitted demonstrating need.
- 3) To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.
3. Submittal Requirements for New or Enlarged Structural Stabilization Measures – In addition to the requirements described in subsection (2) of this section, the following shall be submitted to the City for an existing primary structure more than 10 feet from the OHWM or for a new primary structure:
- a. For a hard structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with an engineering degree. The report shall include the following:
 - 1) An assessment of the necessity for hard structural stabilization by estimating time frames and rates of erosion and documenting the urgency associated with the specific situation.
 - 2) An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM and on-site drainage.
 - b. An assessment prepared by a qualified professional (e.g., shoreline designer or other consultant familiar with lakeshore processes and shore stabilization), containing the following:
 - 1) For a hard structural shoreline stabilization measure, an evaluation of the feasibility of using nonstructural or soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. The evaluation shall address the feasibility of implementing options presented in Plate 43A or 43B based on an assessment of the subject property's characteristics.
 - 2) For a soft structural stabilization measure, an assessment of:
 - a) The erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the soft structural stabilization.
 - b) The feasibility of using nonstructural measures in lieu of soft structural shoreline stabilization measures.
 - 3) For both hard and soft structural shoreline stabilization measures, design recommendations for minimizing the sizing of shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.
 - 4) See additional submittal requirements in subsections (8), (9) and (10) of this section for general submittal requirements, maintenance agreement and general design standards.
4. ~~Replacement or~~ Major Repair or Major Replacement of Hard Structural Shoreline Stabilization
- a. For the purposes of this section, major repair or replacement of a hard shoreline stabilization measure shall include the following activities. For a subject property that has more than one section of bulkhead, the entire linear length of all sections of the bulkhead shall be calculated when determining the provisions below:
 - 1) A repair needed to a portion of an existing stabilization structure that has collapsed, eroded away or otherwise demonstrated a loss of structural integrity, or in which the repair work involves modification of the toe rock or footings, and the repair is 50 percent or greater than the linear length of the shoreline stabilization measure; or

- 2) A repair to more than 75 percent of the linear length of the existing hard structural shoreline stabilization measure in which the repair work involves replacement of top or middle course rocks or other similar repair activities.
- b. When Allowed – The City may only approve a major repair or replacement of an existing hard structural stabilization measure with a hard structural shoreline stabilization measure to protect existing primary structures or principal uses, including detached dwelling units, in either of the following circumstances:
- 1) The primary structure is located 10 feet or less from the OHWM. For the purposes of this provision, the distance shall be measured to the most waterward location of the primary structure; or
 - 2) For a primary structure located more than 10 feet from the OHWM or a use, conclusive evidence is provided to the City that the primary structure or use is in danger from shoreline erosion caused by waves as required in subsection (5) of this section.
5. Submittal Requirements for Major Repairs or Major Replacements of Hard Stabilization Measures – The following shall be submitted to the City when the primary structure is located more than 10 feet landward of the OHWM or for a use with no primary structure:
- a. Written narrative that provides a demonstration of need shall be submitted. A qualified professional (e.g., shoreline designer or other consultant familiar with lakeshore processes and shore stabilization), but not necessarily a licensed geotechnical engineer shall prepare a written narrative. The written narrative shall consist of the following:
- 1) An assessment of the necessity for hard structural stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch, and location of the nearest structure. The evaluation shall address the feasibility of implementing options presented in Plates 43A and 43B, given an assessment of the subject property's characteristics.
 - 2) An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization.
 - 3) An assessment of the feasibility of using nonstructural or soft structural stabilization measures in lieu of hard structural shoreline stabilization measures. Soft stabilization may include the use of gravels, cobbles, occasional habitat boulders, and logs, as well as vegetation.
- b. Design recommendations for minimizing impacts and ensuring that the replacement or repaired stabilization measure is designed, located, sized, and constructed to assure no net loss of ecological functions.
- c. See additional submittal requirements in subsections (8), (9) and (10) of this section for general submittal requirements, maintenance agreement and general design standards.
6. Minor Repairs or Minor Replacement of Hard Shoreline Stabilization – Minor repairs of hard shoreline stabilization include those maintenance and repair activities not otherwise addressed in subsection (5) of this section. The City shall allow minor repair activities to existing hard structural shoreline stabilization measures.
7. Repair or Replacement of Soft Shoreline Stabilization or Replacement of Hard Stabilization with Soft Shoreline Stabilization and Submittal Requirements
- a. The City shall allow repair or replacement of soft shoreline stabilization, and replacement of hard shoreline stabilization with soft shoreline stabilization.
- b. The applicant shall submit to the City design recommendations for minimizing impacts and ensuring that the replacement or repaired stabilization measure is designed, located, sized, and constructed to assure no net loss of ecological functions.
- c. See additional submittal requirements in subsections (8), (9) and (10) of this section for general submittal requirements, maintenance agreement and general design standards.

8. General Submittal Requirements for New, Enlarged, Replacement and Major Repair Measures – Detailed construction plans shall be submitted to the City, including the following:

- a. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWM. The plan must be prepared by a qualified professional, approved by the City, with knowledge in hydrology and construction of shoreline stabilization measures.
- b. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation. The sizing and placement of all materials shall be selected to accomplish the following objectives:
 - 1) Protect the property and structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from wind- and boat-driven waves;
 - 2) Allow safe passage and migration of fish and wildlife; and
 - 3) Minimize or eliminate juvenile salmon predator habitat.
- c. For new or enlarged hard structural stabilization measures when shoreline vegetation is required as part of mitigation, a detailed 5-year vegetation maintenance and monitoring program to include the following:
 - 1) Goals and objectives of the shoreline stabilization and vegetation plan;
 - 2) Success criteria by which the implemented plan will be assessed;
 - 3) A 5-year maintenance and monitoring plan, consisting of one (1) site visit per year by a qualified professional, with annual progress reports submitted to the Planning Official and all other agencies with jurisdiction;
 - 4) A contingency plan in case of failure; and
 - 5) Proof of a written contract with a qualified professional who will perform the monitoring.
- d. Fee for a consultant selected by the City to review the shoreline stabilization plan, the monitoring and maintenance program, the geotechnical analysis report or narrative justification of demonstrated need if required, and drawings and attend a pre-submittal meeting for the building permit. In the case of use of a consultant, the applicant shall sign the City's standard 3-party contract.

9. Maintenance Agreement for Hard and Soft Structural Stabilization – The applicant shall complete and submit a 5-year-period maintenance agreement, using the City's standard form, for recording to ensure maintenance of any structural shoreline stabilization measure.

10. General Design Standards – The following design standards shall be incorporated into any stabilization design:

- a. Soft structural shoreline stabilization measures shall be used to the maximum extent feasible, limiting hard structural shoreline stabilization measures to the portion or portions of the site where necessary to connect to existing hard shoreline stabilization measures on adjacent properties. The length of hard structural shoreline stabilization connections to adjacent properties shall be minimized to the maximum extent feasible, and extend into the subject property from adjacent properties no more than needed.
- b. For enlarged, major repair or replacement of hard structural shoreline stabilization measures, excavation and fill activities associated with the structural stabilization shall be landward of the existing OHWM, except when not feasible due to existing site constraints or to mitigate impacts of hard structural stabilization by increasing shallow water habitat with gravel, rocks and logs.
- c. For short-term construction activities, hard and soft structural stabilization measures must minimize and mitigate any adverse impacts to ecological functions by compliance with appropriate timing restrictions, use of

best management practices to prevent water quality impacts related to upland or in-water work, and stabilization of exposed soils following construction.

d. For long-term impacts, new, enlarged or major repair or replacement of hard structural shoreline stabilization shall incorporate the following measures into the design wherever feasible.

- 1) Limiting the size of hard structural shoreline stabilization measures to the minimum necessary, including height, depth, and mass.
- 2) Shifting hard stabilization structure landward and/or sloping the structure landward to provide some dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.

e. For new and enlarged hard or soft shoreline stabilization, the following additional measures shall be incorporated into the design:

- 1) To increase shallow-water habitat, install gravel/cobble beach fill waterward of the OHWM, grading slope to a maximum of one (1) vertical (v): four (4) horizontal (h). The material shall be sized and placed to remain stable and accommodate alteration from wind- and boat-driven waves.
- 2) Plant native riparian vegetation as follows:
 - a) At least 75 percent of the nearshore riparian area located along the edge of the OHWM shall be planted.
 - b) The vegetated portion of the nearshore riparian area shall average 10 feet in depth upland from the OHWM, but may be a minimum of five (5) feet wide to allow for variation in landscape bed shape and plant placement; provided, that the total square footage of the area planted equals 10 feet along the water's edge.
 - c) Mitigation plantings shall be native vegetation consisting of a mixture of trees, shrubs and groundcover designed to improve habitat functions. At least three (3) trees per 100 linear feet of shoreline and shrubs planted to attain coverage of at least 60 percent of area in two (2) years must be included in the plan.
 - d) Plant materials must be selected from the Kirkland Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester.
 - e) An alternative planting plan or mitigation measure in lieu of meeting this section shall be allowed pursuant to Section 83.400.3, if approved by other state and federal agencies. In addition, the City shall accept existing native trees, shrubs and groundcover as meeting the requirements of this section, including vegetation previously installed as part of a prior development activity, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation.
 - f) Standards for vegetation placement are provided in KZC 83.400.

f. Hard and soft shoreline stabilization measures shall be designed to not significantly interfere with normal surface and/or subsurface drainage into Lake Washington, constitute a hazard to navigation or extend waterward more than the minimum amount necessary to achieve effective stabilization.

g. Hard and soft stabilization measures are allowed to have gravel, logs and rocks waterward of the OHWM, as approved by the City and federal and state agencies, to provide enhancement of shoreline ecological functions through creation or enhancement of nearshore shallow-water habitat.

h. Stairs or other water access measures may be incorporated into the shoreline stabilization, but shall not extend waterward of the shoreline stabilization measure.

- i. The shoreline stabilization measures shall be designed to ensure that the measures do not restrict public access or make access unsafe to the shoreline, except where such access is modified under the provisions of KZC 83.420 for public access. Access measures shall not extend farther waterward than the face of the shoreline stabilization structure.
- j. See subsections (11) and (12) of this section concerning additional design standards for hard structural stabilization and subsection (13) of this section for soft structural stabilization.

11. Specific Design Standards for New or Enlarged Hard Structural Stabilization – In addition to the general design standards in subsection (10) of this section, the following design standards shall be incorporated:

- a. Where hard stabilization measures are not located on adjacent properties, the construction of a hard stabilization measure on the site shall tie in with the existing contours of the adjoining properties, as feasible, such that the proposed stabilization will not cause erosion of the adjoining properties.
- b. Where hard stabilization measures are located on adjacent properties, the proposed hard stabilization measure may tie in flush with existing hard stabilization measures on adjoining properties, but by no more than as reasonably required. The new hard stabilization measure shall not extend waterward of OHWM, except as necessary to make the connection to the adjoining hard stabilization measures. No net intrusion into the lake and no net creation of upland shall occur with the connection to adjacent stabilization measures.
- c. Fill behind hard shoreline stabilization measures shall be limited to an average of one (1) cubic yard per running foot of bulkhead. Any filling in excess of this amount shall be considered a regulated activity subject to the regulations in this chapter pertaining to fill activities and the requirement for obtaining a shoreline substantial development permit.

12. Specific Design Standards for Replacement of Hard Structural Stabilization – Replacement hard structural stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary structure was constructed prior to January 1, 1992 (RCW 90.58.100(6) and WAC 173-26-241 and 173-26-231(3)(j)), and there are overriding safety or environmental concerns if the stabilization measure is moved landward of the OHWM. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement structures shall be located at or landward of the existing shoreline stabilization structure.

13. Specific Design Standards for Soft Structural Stabilization – In addition to the general submittal requirements in subsection (8) of this section and the general design standards in subsection (10) of this section, the following design standards shall be incorporated:

- a. Provide sufficient protection of adjacent properties by tying in with the existing contours of the adjoining properties to prevent erosion at the property line. Proposals that include necessary use of hard structural stabilization measures only at the property lines to tie in with adjacent properties shall be permitted as soft structural shoreline stabilization measures. The length of hard structural stabilization connections to adjacent properties shall be the minimum needed and extend into the subject property from adjacent properties as reasonably required.
- b. Size and arrange any gravels, cobbles, logs, and boulders so that the improvement remains stable in the long-term, prevents upland erosion, dissipates wave energy, without presenting extended linear faces to oncoming waves, and minimizes impact to assure no net loss of ecological function.

14. Expansion of SMA Jurisdiction from Shift in OHWM – If a shoreline stabilization measure from any action required by this chapter or intended to improve ecological functions results in shifting the OHWM landward of the pre-modification location that expands the shorelines jurisdiction onto any property other than the subject property, then as part of the shoreline permit process found in Chapter 141 KZC:

- a. The City shall notify the affected property owner in writing; and

b. The City may propose to grant relief for the affected property owners from applicable shoreline regulations resulting in expansion of the shorelines jurisdiction. The proposal to grant relief must be submitted to the Department of Ecology with the shoreline permit under the procedures established in KZC 141.70. If approved, notice of the relief, in a form approved by the City Attorney, shall be recorded on the title of the affected property with the King County Recorder's office.

(Ord. 4491 § 11, 2015; Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.310 Breakwaters, Jetties, Groins

1. Breakwaters, jetties, and groins are not permitted in the Natural, Urban Conservancy, or Residential – L shoreline environments. Breakwaters, jetties, and groins may only be permitted in other shoreline environments where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
2. The City will permit the construction and use of a breakwater, jetty or groin only if:
 - a. The structure is essential to the safe operation of a moorage facility or the maintenance of other public water-dependent uses, such as swimming beaches;
 - b. The City determines that the location, size, design, and accessory components of the moorage facility or other public water-dependent uses to be protected by the breakwater are distinctly desirable and within the public interest; and
 - c. The benefits to the public provided by the moorage facility or other public water-dependent uses protected by the breakwater outweigh any undesirable effects or adverse impacts on the environment or nearby waterfront properties.
3. Design Standards
 - a. All breakwaters, jetties or groins must be designed and constructed under the supervision of a civil engineer or a similarly qualified professional. As part of the application, the engineer or the other professional designing the breakwater, jetty or groin must certify that it is the smallest feasible structure to meet the requirements of this chapter and accomplish its purpose and that the design will result in the minimum feasible adverse impacts upon the environment, nearby waterfront properties and navigation.
 - b. Breakwaters may only use floating or open-pile designs.

(Ord. 4251 § 3, 2010)

83.320 Dredging and Dredge Material Disposal

1. New development shall be sited and designed to avoid or, if that is not feasible, to minimize the need for new and maintenance dredging.
2. Dredging waterward of the OHWM may be allowed for only the following purposes:
 - a. To establish, expand, relocate or reconfigure navigation channels and basins where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins must be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.
 - b. To maintain the use of existing private or public boat moorage, water-dependent use, or other public access use. Maintenance dredging is restricted to maintaining previously dredged and/or existing authorized location, depth, and width.
 - c. To restore ecological functions, provided the applicant can demonstrate a clear connection between the proposed dredging and the expected environmental benefits to water quality and/or fish and wildlife habitat.

- d. To obtain fill or construction material when necessary for the restoration of ecological functions. Dredging waterward of the OHWM for the primary purpose of obtaining fill or construction materials is not permitted under other circumstances. When allowed, the site where the fill is to be placed must be located waterward of the OHWM. The project must be associated with a significant habitat enhancement project.
3. Depositing dredge materials waterward of the OHWM shall only be allowed in approved sites, only when the material meets or exceeds state pollutant standards, and only for the purposes of fish or wildlife habitat improvement or permitted beach enhancement.
4. Dredging Design Standards
 - a. All permitted dredging must be the minimum area and volume necessary to accommodate the existing or proposed use, and must be implemented using practices that do not exceed state water quality standards.
 - b. Dredging projects shall be designed and carried out to prevent direct and indirect impacts on adjacent properties.
5. Submittal Requirements – The following information shall be required for all dredging applications:
 - a. A description of the purpose of the proposed dredging.
 - b. A detailed description of the existing physical character, shoreline geomorphology and biological resources provided by the area proposed to be dredged, including:
 - 1) A site plan map outlining the perimeter of the proposed dredge area. The map must also include the existing bathymetry depths based on the OHWM and have data points at a minimum of 2-foot depth increments.
 - 2) A habitat survey identifying aquatic vegetation, potential native fish spawning areas, or other physical or biological habitat parameters.
 - 3) Information on the stability of lakebed adjacent to proposed dredging area.
 - 4) Information on the composition of the material to be removed.
 - c. A description of:
 - 1) Dredging procedure, including length of time it will take to complete dredging, method of dredging, and amount of material removed.
 - 2) Where the materials will be placed to allow for sediment to settle, by what means the materials will be transported away from the dredge site, and specific approved land or open-water disposal site.
 - 3) Plan for anticipated future maintenance dredging and disposal, including frequency and quantity, for at least a 20-year period.
 - d. Copies of state and federal approvals.

(Ord. 4251 § 3, 2010)

83.330 Land Surface Modification

1. General – The following standards must be met for any approved land surface modification:
 - a. Land surface modification within required shoreline setback shall only be permitted as authorized by a valid shoreline permit, building permit or land surface modification permit under the provisions established in KMC Title 29.

- b. The land surface modification shall be consistent with the provisions of this chapter, including, but not limited to, the regulations regarding streams, wetlands and their buffers, geologically hazardous areas, shoreline vegetation, and trees.
- c. The land surface modification is consistent with the provisions of the most current edition of the Public Works Department's Pre-Approved Plans and Policies.
- d. All excess material resulting from land surface modification shall be disposed of in a manner that prevents the material entering into a waterbody through erosion or runoff. Where large quantities of plants are removed by vegetation control activities authorized under this section, plant debris shall be collected and disposed of in an appropriate location located outside of the shoreline setback.
- e. Areas disturbed by permitted land surface modification in the shoreline setback shall be stabilized with approved vegetation.
- f. All materials used as fill shall be nondissolving and nondecomposing. Fill material shall not contain organic or inorganic material that would be detrimental to water quality or existing habitat, or create any other significant adverse impacts to the environment.
- g. The land surface modification must be the minimum necessary to accomplish the underlying reason for the land surface modification.
- h. Except as is necessary during construction, dirt, rocks and similar materials shall not be stockpiled on the subject property. If stockpiling is necessary during construction, it must be located as far as feasible from the lake and strictly contained to prevent erosion and runoff.

2. Permitted Activities

- a. Land surface modification is prohibited within the shoreline setback, except for the following:
 - 1) For the purpose of shoreline habitat and natural systems enhancement projects, setting back shoreline stabilization measures or portions of shoreline stabilization measures from the OHWM, or soft structural shoreline stabilization measures under a plan approved by the City.
 - 2) Associated with the installation of improvements located within the shoreline setback or waterward of the OHWM, as permitted under KZC 83.190(2).
 - 3) Removal of prohibited vegetation.
 - 4) As performed in the normal course of maintaining existing vegetation on a lot associated with existing buildings, provided such work:
 - a) Does not modify any drainage course.
 - b) Does not involve the importation of fill material, except as needed for mulch or soil amendment.
 - c) Does not involve removal of native vegetation or vegetation installed as part of an approved restoration or enhancement plan, unless approved by the Planning Official.
 - d) Does not result in erosion of the shoreline or undermine stability of neighboring properties.
 - e) Does not result in the compaction of existing soils in a manner that significantly decreases the ability of the soil to absorb rainfall.
 - f) Is the minimum extent necessary to reasonably accomplish the maintenance activity.
 - 5) Correction of storm drainage improvements when supervised by the Department of Public Works.

- 6) As necessary to maintain or upgrade the structural safety of a legally established structure.
 - 7) For exploratory excavations under the direction of a professional engineer licensed in the state of Washington, as long as the extent of the land surface modification does not exceed the minimum necessary to obtain the desired information.
- b. Land surface modification outside of the shoreline setback is regulated as land surface modifications throughout the City. See KMC Title 29 for those regulations.

(Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.340 Fill

1. Fill shall be permitted only where it is demonstrated that the proposed action will not:
 - a. Result in significant damage to water quality, fish, aquatic habitat, and/or wildlife habitat; or
 - b. Adversely alter natural drainage and circulation patterns, currents, or stream flows, or significantly reduce floodwater-holding capabilities.
2. Fills landward and waterward of the OHWM shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.
3. Fills waterward of the OHWM shall be permitted only:
 - a. In conjunction with an approved water-dependent use or public access use, including maintenance of beaches; or
 - b. As part of an approved mitigation or restoration project.
4. Any placement of materials landward of the OHWM shall comply with the provisions in KZC 83.330 for land surface modification.
5. No refuse disposal sites, solid waste disposal sites, or sanitary fills shall be permitted.

(Ord. 4251 § 3, 2010)

83.350 Shoreline Habitat and Natural Systems Enhancement Projects

1. Purpose – Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.
2. Covered Activities – The following actions are allowed under this section, provided they first meet the purpose stated in subsection (1) of this section:
 - a. Establishment or enhancement of native vegetation.
 - b. Removal of nonnative or invasive plants upland of the OHWM, including only those identified as noxious weeds on King County’s published Noxious Weed List, unless otherwise authorized by the City.
 - c. Conversion of hard structural shoreline stabilization to soft shoreline stabilization, including associated clearing, dredging and filling necessary to implement the conversion, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.
 - d. Implementation of any project or activity identified in the City’s Restoration Plan.
 - e. Implementation of any project or activity identified in the Final WRIA 8 Chinook Salmon Conservation Plan and related documents.

(Ord. 4251 § 3, 2010)

General Regulations

83.360 No Net Loss Standard and Mitigation Sequencing

1. General

- a. If a proposal meets the specific standards, such as setbacks, pier dimensions and tree planting requirements, ~~are~~ provided in this chapter, then the City shall not require additional mitigation sequencing analysis under these provisions.
- b. In the following circumstances, the applicant shall provide an analysis of measures taken to mitigate environmental impacts:
 - 1) Where specific regulations for a proposed use or activity are not provided in this chapter such as for marinas; or
 - 2) Where either a conditional use or variance application is proposed;
 - 3) Where the standards contained in this chapter require an analysis of the feasibility of or need for an action or require analysis to determine whether the design has been minimized in size; and
 - 4) Where the standards provide for alternative compliance or mitigation measures.
- c. Under Chapter 173-26 WAC, uses and shoreline modifications along Kirkland's shoreline shall be designed, located, sized, constructed and/or maintained to achieve no net loss of shoreline ecological functions.
- d. Maintenance activities shall be conducted in a manner that minimizes impacts to fish, wildlife, and their associated habitat and utilizes best management practices, unless specific standards in this chapter are already provided for maintenance activities.
- e. Where evaluating the feasibility of a proposed action, the City shall consider whether the cost of avoiding disturbance is substantially disproportionate as compared to the environmental impact of the proposed disturbance, including any continued impacts on functions and values over time.
- f. Where mitigation is required, the City shall consider alternative mitigation measures that are proposed by the applicant that may be less costly than those prescribed in this chapter; provided, that the alternatives are as effective in meeting the requirements of no net loss.
- g. Mitigation analysis of subsection 2 below shall be prepared by a qualified professional approved by the City. The applicant shall pay for peer review of the mitigation analysis by the City or the City's consultant if the City determines that it is needed.
- hg. Off-site mitigation located within the City's shoreline jurisdiction may be considered if all or part of the required mitigation cannot be provided on-site due to the location of existing improvements or other site constraints.
- ih. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection. A document must be recorded containing all required conditions of the mitigation, including maintenance and monitoring through the life of the development, unless otherwise approved by the City, in a form acceptable to the City Attorney and recorded with the King County Recorder's Office Bureau of Elections and Records. If the mitigation is located off-site, then the property owner of the mitigation site shall sign the agreement, which shall run with the property, and provide land survey information of the mitigation location in a format approved by the Planning Official.

2. Mitigation Analysis – In order to assure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to subsection (1) of this section shall

utilize the following mitigation sequencing guidelines that appear in order of preference, during the design, construction and operation of the proposal:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;
- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- d. Reducing or eliminating the impact over time by preservation and maintenance operations;
- e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
and
- f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Failure to demonstrate that the mitigation sequencing standards have been met may result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard and mitigation sequencing.

(Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.370 Federal and State Approval

1. All work at or waterward of the OHWM requires permits or approvals from one (1) or more of the following state and federal agencies: U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Natural Resources, or Washington Department of Ecology.
2. Documentation verifying necessary state and federal agency approvals must be submitted to the City prior to issuance of a building permit or land surface modification permit, including shoreline exemption. All activities within shorelines jurisdiction must comply with all other applicable laws and regulations.
3. If structures are proposed to extend waterward of the inner harbor line, the applicant must obtain an aquatic use authorization from the Washington State Department of Natural Resources and submit proof of authorization with submittal of a building permit or land surface modification permit.

(Ord. 4251 § 3, 2010)

83.380 Shoreline Setback Reduction

1. Improvements Permitted Within the Shoreline Setback – See standards contained in KZC 83.190(2).
2. Shoreline Setback Reductions
 - a. In the Residential – L shoreline environment, the shoreline setback may be reduced by two (2) feet if subject to the historic preservation provisions of KMC 22.28.048, but in no case closer than 25 feet with the exception in the Residential – L shoreline environments (A), (F) and (J) where the minimum shoreline setback is 15 feet.
 - b. In all shoreline environments - The required shoreline setback may be reduced to a minimum of 25 feet, except 15 feet in Residential -L shoreline environments (A), (F) and (J), when setback reduction impacts are mitigated using a combination of the mitigation options provided in the chart below to achieve an equal or greater protection of lake ecological functions, ~~except in the Residential – L environments (A), (F) and (J) where the required shoreline setback may be reduced to a minimum of 15 feet.~~ The following standards shall apply to any reduced setback:
 - 1) The minimum setback that may be approved through this reduction provision is 25 feet in width, except 15 feet in width in the Residential – L shoreline environments (A), (F) and (J). Any further setback

reduction below 25 feet or 15 feet, respectively, in width shall require approval of a shoreline variance application.

2) The City shall accept previous actions that meet the provisions established in the setback reduction option chart in subsection (2)(~~e~~f) of this section as satisfying the requirements of this section; provided, that all other provisions are completed, including but not limited to the agreement noted in subsection (2)(b)(4) of this section. The reduction allowance for previously completed reduction actions may only be applied once on the subject property.

3) Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.

4) Applicants who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, unless otherwise approved by the City, in a form acceptable to the City Attorney, and recorded with the King County Recorder’s Office. The applicant shall provide land survey information for this purpose in a format approved by the Planning Official. An electronic copy of the approved as-built landscape plan shall be filed with the building permit plans in the City’s electronic permitting system and does not need to be recorded.

5) The shoreline setback reduction mechanisms shall not apply within the Natural shoreline environment.

6) See KZC 83.300(8)(c) for required monitoring and maintenance program for replacement of hard to soft shoreline stabilization and KZC 83.400(5) for maintenance agreement of native vegetative plantings.

c. For removal of an existing hard shoreline stabilization measure, an evaluation by a qualified professional approved by the Planning Official based on KZC 83.300(7) and (8) and Chapter 10 KZC must be provided to the City with the development permit to document that a reduced setback will not result in the need of a hard shoreline stabilization measure in the future to protect the primary structure as regulated in KZC 83.300.

d. The reduction allowance shall be applied to the required shoreline setback. For instance, if a reduction is proposed in the Residential – L environment, where the shoreline setback requirement is 30 percent of the average parcel depth, the shoreline setback could be reduced to 15 percent of the average parcel depth, but in no case less than 25 feet, if reduction Option 1 in the chart below is used.

e. See KZC 141.70.4 addressing request from relief for measuring the required shoreline setback and lot coverage if the OHWM is changed due to removal of hard shoreline stabilization

f.e. The chart below describes the setback reduction options:

Shoreline Setback Reduction Options		Reduction Allowance	
		Standard Reduction (min. 25 ft. setback)	Residential – L (A), (F) and (J) environments (min. 15 ft. setback)
Water Related Conditions or Actions			
1	Presence of nonstructural or soft structural shoreline stabilization measures located at, below, or within five (5) feet landward of the lake’s OHWM along at least 75 percent of the linear lake frontage of the subject property. This can include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore	Reduce required setback by 15 percentage points, or in cases where the required setback is 60 feet or greater, reduce setback by 30 feet	Reduce required setback by 15 feet

Shoreline Setback Reduction Options		Reduction Allowance	
		Standard Reduction (min. 25 ft. setback)	Residential – L (A), (F) and (J) environments (min. 15 ft. setback)
	shallow-water habitat consistent with the soft structural shoreline stabilization provisions in KZC 83.300. This option cannot be used in conjunction with Options 2, 3 , 54 or 65 below.		
2	<u>Same as above in Option 1 except along at least 50 percent of the linear lake frontage of the subject property. This option cannot be used in conjunction with Option 1 above or Options 3, 5 or 6 below.</u>	<u>Reduce required setback by 10 percentage points, or in cases where the required setback is 60 feet or greater, reduce setback by 20 feet</u>	<u>Reduce required setback by 10 feet.</u>
32	Presence of nonstructural or soft structural shoreline stabilization measures located at, below, or within five (5) feet landward of the lake's OHWM along at least 15 linear feet of the lake frontage of the subject property. This may include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore shallow-water habitat consistent with the design provisions for soft structural shoreline stabilization in KZC 83.300. This option cannot be used in conjunction with Option 1 <u>or 2</u> above or Options 54 or 65 below.	Reduce required setback by five (5) percentage points, or in cases where the required setback is 60 feet or greater reduce setback by 10 feet	Reduce required setback by five (5) feet
43	Opening of previously piped on-site watercourse to allow potential rearing opportunities for anadromous fish for a minimum of 25 feet in length. Opened watercourses must be provided with a native planted buffer at least five (5) feet wide on both sides of the stream, and must not encumber adjacent properties with a 5-foot-wide buffer without express written permission of the adjacent property owner. A qualified professional must design opened watercourses. The opened watercourse shall be exempt from the buffer provisions of KZC 83.490. The opened watercourse is exempt from the buffer requirements and standards of KZC 83.510.	Reduce required setback by five (5) percentage points, or in cases where the required setback is 60 feet or greater reduce setback by four (4) feet	Reduce required setback by five (5) feet
54	Existing hard structural shoreline stabilization measures are reconstructed to set back from the OHWM between two (2) feet and four (4) feet based on feasibility and existing conditions and/are sloped at a maximum three (3) vertical (v): one (1) horizontal (h) angle to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.	Reduce required setback by five (5) percentage points, or in cases where the required setback is 60 feet or greater reduce setback by four (4) feet	Reduce required setback by five (5) feet

Shoreline Setback Reduction Options		Reduction Allowance	
		Standard Reduction (min. 25 ft. setback)	Residential – L (A), (F) and (J) environments (min. 15 ft. setback)
65	Shoreline enhancement measures are installed waterward of an existing hard structural shoreline stabilization measure to create or enhance nearshore shallow-water habitat. They may include the use of gravels, cobbles, boulders, and logs, as well as vegetation. The material shall be of a size and placed to remain stable and accommodate alteration from wind- and boat-driven waves and shall be graded to a maximum slope of one (1) vertical (v): four (4) horizontal (h). The effect of the placed material cannot result in the enlargement of the existing hard structural shoreline stabilization measure.	Reduce required setback by two (2) percentage points, or in cases where the required setback is 60 feet or greater reduce setback by four (4) feet	Reduce required setback by two (2) feet
Upland Related Conditions or Actions			
76	Installation of biofiltration/infiltration mechanisms in lieu of piped discharge to the lake, such as mechanisms that infiltrate or disperse surface water on the surface of the subject property. These mechanisms shall be sized to store a minimum of 70 percent of the annual volume of runoff water from the subject property, for sites with poor soils, or 99 percent of the annual volume of runoff water from the subject property, for sites with well-draining soils. This mechanism shall apply to sites where the total new or replaced impervious surface is less than or equal to 5,000 square feet. The mechanisms shall be designed to meet the requirements in the City's current surface water design manual.	Reduce required setback by two (2) percentage points, or in cases where the required setback is 60 feet or greater reduce setback by four (4) feet	Reduce required setback by two (2) feet
7	Increasing the width of the required landscape strip within the reduced shoreline setback a minimum of five (5) additional feet in width. <u>The additional landscape strip shall contain 1.5 trees per 100 linear feet of shoreline, shrubs, and groundcover meeting the standards of 83.400.3.2).</u>	Reduce required setback by two (2) percentage points, or in cases where the required setback is 60 feet or greater reduce setback by four (4) feet	Reduce required setback by two (2) feet
8	Installation of pervious material for all pollution generating surfaces such as driveways, parking or private roads that allow water to pass through at rates similar to pre-developed conditions. Excluded from this provision are the vehicular easement roads, such as 5th Avenue West or Lake Avenue West in the Residential – L shoreline environment.	Reduce required setback by two (2) percentage points, or in cases where the required setback is 60 feet or greater reduce setback by four (4) feet	Reduce required setback by two (2) feet
9	Limiting the lawn area within the shoreline setback to no more than 50 percent of the reduced setback area.	Reduce required setback by two (2) percentage points, or in cases where the required setback is 60 feet or greater reduce setback by four (4) feet	Reduce required setback by two (2) feet

Shoreline Setback Reduction Options		Reduction Allowance	
		Standard Reduction (min. 25 ft. setback)	Residential – L (A), (F) and (J) environments (min. 15 ft. setback)
10	Preserving or restoring <u>within shoreline jurisdiction</u> at least 20 percent of the total lot area outside of the reduced setback and any critical areas and their associated buffers as native vegetation.	Reduce required setback by two (2) percentage points, or in cases where the required setback is 60 feet or greater reduce setback by four (4) feet	Reduce required setback by two (2) feet

(Ord. 4491 § 11, 2015; Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.390 Site and Building Design Standards

1. Water-enjoyment and non-water-oriented commercial and recreational uses shall contain the following design features to provide for the ability to enjoy the physical and aesthetic qualities of the shoreline:

- a. Buildings are designed with windows that orient toward the shoreline.
- b. Buildings are designed to incorporate outdoor areas such as decks, patios, or viewing platforms that orient toward the shoreline.
- c. Buildings are designed with entrances along the waterfront facade and with connections between the building and required public pedestrian walkways.
- d. Service areas are located away from the shoreline.
- e. Site planning includes public use areas along waterfront public pedestrian walkways, if required under the provisions established in KZC 83.420, that will encourage pedestrian activity, including but not limited to:
 - 1) Permanent seating areas;
 - 2) Vegetation, including trees to provide shade cover; and
 - 3) Trash receptacles.

2. Exemptions – The following are exempt from the requirements of subsection (1) of this section:

- a. Non-water-oriented commercial and recreational uses that are located on the east side of Lake Washington Boulevard NE/Lake Street or on the east side of 98th Avenue NE.
- b. Non-water-oriented commercial and recreational uses where there is an intervening development between the shoreline and the subject property.

3. Buildings shall not incorporate materials that are reflective or mirrored.

(Ord. 4251 § 3, 2010)

83.400 Tree Management and Vegetation in Shoreline Setback

1. Tree Retention – The following provisions shall apply to significant trees located within the shoreline jurisdiction, in addition to the provisions contained in Chapter 95 KZC. Provisions contained in Chapter 95 KZC that are not addressed in this section continue to apply.

To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained or, if removed, the loss of shoreline ecological functions shall be mitigated for, subject to the following standards:

a. No Development Activity – For tree removal in the shoreline setback when no development activity is proposed or in progress, the following tree replacement standards and requirements shall apply:

1) Healthy, diseased or nuisance trees that are removed or fallen trees in the shoreline setback shall be replaced as follows:

Removed Tree Type	Replacement Requirement
One (1) conifer tree less than 24 inches in diameter as measured at breast height	<p>For removal of conifer tree up to 12 inches in diameter, replace with one (1) native conifer tree at least six (6) feet in height measured from existing grade.</p> <p>For removal of conifer tree greater than 12 inches in diameter but less than 24 inches in diameter, same replacement requirements as for conifer tree 12 inches in diameter or less, but also a riparian vegetation area at least 80 square feet at the time of planting. Riparian area shall contain at least 60 percent shrubs and be a minimum of three (3) feet wide in all dimensions at the time of planting.</p>
One (1) deciduous tree less than 24 inches in diameter as measured at breast height	<p>For removal of deciduous tree up to 12 inches in diameter replace with one (1) deciduous tree at least two (2) inches in caliper measured six (6) inches above existing grade or one (1) native conifer tree at least six (6) feet in height measured from existing grade.</p> <p>For removal of deciduous tree greater than 12 inches in diameter but less than 24 inches in diameter, same replacement requirements as for deciduous tree 12 inches in diameter or less, but also a riparian vegetation area of at least 80 square feet at the time of planting. Riparian area shall contain at least 60 percent shrubs and be a minimum of three (3) feet wide in all dimensions at the time of planting.</p>
One (1) conifer or deciduous tree 24 inches in diameter or greater as measured at breast height	<p>Only trees meeting the criteria found in Chapter 95 KZC for a nuisance or hazard tree may be removed. A report, prepared by a qualified professional certified arborist, must be submitted showing how the tree meets the criteria. The City arborist shall make the final determination if the tree meets the criteria and may be removed.</p> <p>If the City arborist approved removal of the tree, tree replacement shall be:</p> <p>For removal of one (1) conifer tree, replace with two (2) native conifer trees at least six (6) feet in height at the time of planting.</p> <p>For removal of one (1) deciduous tree, replace with two (2) trees of either type. Native conifer trees shall be at least six (6) feet in height and deciduous trees shall be at least two (2) inches in caliper measured six (6) inches above existing grade at the time of planting.</p>
A significant tree that has fallen as a result of natural causes, such as a fire, flood, earthquake or storm	<p>If the subject property complies with the minimum tree density requirement established in Chapter 95 KZC, no replacement is required. Otherwise, replace with one (1) tree. Native conifer trees shall be at least six (6) feet in height and deciduous trees shall be at least two (2) inches in caliper measured six (6) inches above existing grade at the time of planting.</p>

2) A tree removal request shall be submitted in writing to the City prior to any tree removal within the shoreline setback. The request shall include the location, number, type and size of tree(s) being removed and the proposed replacement tree(s) and riparian vegetation planting plan meeting the standards required in subsection (1)(a) of this section. The City shall inspect the tree replacement once installation is complete.

3) An alternative replacement option shall be approved if an applicant can demonstrate that:

- a) It is not feasible to plant all of the required mitigation trees in the shoreline setback of the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, and minimum spacing requirements for the trees to be planted; or
 - b) The required tree replacement will obstruct existing views to the lake, at the time of planting or upon future growth that cannot otherwise be mitigated through tree placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the tree replacement will obstruct existing views to the lake.

The alternate replacement option must be equal or superior to the provisions of this section in accomplishing the purpose and intent of maintaining shoreline ecological functions and processes. This may include, but shall not be limited to, a riparian restoration plan consisting of at least 60 percent shrubs and some groundcovers selected from the Kirkland Native Plant List that shall equal at a minimum 80 square feet for each tree to be replanted. The applicant shall submit a planting plan to be reviewed by the Planning Official or Urban Forester, who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Planning Official or Urban Forester shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.
 - 4) In circumstances where the proposed tree removal includes a tree that was required to be planted as a replacement tree under the provisions of this subsection or as part of the required vegetation in the shoreline setback established in subsection (3) of this section, the required tree replacement shall be addressed under the provision below that requires only a 1:1 replacement.
 - 5) For required replacement trees, a planting plan showing the location, size and species of the new trees is required to be submitted and approved by the Planning Official. All replacement trees in the shoreline setback must be selected from the Kirkland Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester.
- b. Development Activity – For tree removal in the shoreline setback when development activity is proposed or in progress.
- 1) Submittal Requirements in the Shoreline Setback
 - a) A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of existing structures, driveways, access ways and easements and the proposed improvements.
 - b) An arborist report stating the size (DBH), species, and assessment of health of all significant trees located within the shoreline setback. This requirement may be waived by the Planning Official if it is determined that proposed development activity will not potentially impact significant trees within the shoreline setback.
 - 2) Tree Retention Standards in the Shoreline Setback – Within the shoreline setback, existing significant trees shall be retained, provided that the trees are determined to be healthy and windfirm by a qualified professional, and provided the trees can be safely retained consistent with the proposed development activity. The Planning Official is authorized to require site plan alterations to retain significant trees in the shoreline setback. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways, easements or utilities. The applicant shall be encouraged to retain viable trees in other areas on site.
 - 3) Replanting Requirements in the Shoreline Setback

- a) If the Planning Official approves removal of a significant tree in the shoreline setback area, then the tree replacement requirements of subsection (1)(a) of this section shall be met. See alternative mitigation option in subsection (1)(b)(3)(c) of this section that may be proposed.
- b) For required replacement trees, a planting plan showing location, size and species of the new trees is required. All replacement trees in the shoreline setback must be selected from the Kirkland Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester.
- c) An alternative mitigation option may be approved if an applicant can demonstrate that:
 - 1) It is not feasible to plant all of the required mitigation trees on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, and minimum spacing requirements for the trees to be planted; or
 - 2) The required tree replacement will obstruct existing views to the lake, at the time of planting or upon future growth that cannot otherwise be mitigated through tree placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the tree replacement will obstruct existing views to the lake.

The alternate mitigation must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining shoreline ecological functions and processes. This may include, but shall not be limited to, a riparian restoration plan consisting of at least 60 percent shrubs, perennials and groundcovers selected from the Kirkland Native Plant List that shall equal at minimum 80 square feet for each tree to be replanted. The applicants shall submit a planting plan to be reviewed by the Planning Official or Urban Forester, who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Planning Official or Urban Forester shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

- 2. Tree Pruning – Nondestructive thinning of lateral branches to enhance views or trimming, shaping, thinning or pruning of a tree necessary to its health and growth is allowed, consistent with the following standards:
 - a. In no circumstance shall removal of more than one-fourth (1/4) of the original crown be permitted;
 - b. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy;
 - c. Pruning shall retain branches that overhang the water to the maximum extent feasible.
- 3. Required Vegetation in Shoreline Setback – Riparian vegetation contributes to shoreline ecological functions in a number of different ways, including maintaining temperature, removing excessive nutrients and toxic compounds, attenuating wave energy, removing and stabilizing sediment and providing woody debris and other organic matter. In order to minimize potential impacts to shoreline ecological functions from development activities, the following shoreline vegetation standards are required:
 - a. For properties that do not comply with the shoreline vegetation standards contained in this subsection, refer to KZC 83.550 to determine when compliance is required.
 - b. Minimum Vegetation Standard Compliance
 - 1) Location
 - a) Water-Dependent Uses or Activities – The applicant shall plant native vegetation, as necessary, in at least 75 percent of the property’s shoreline frontage for the nearshore riparian area located along

or near the water's edge, except for the following areas, where the vegetation standards shall not apply: those portions of water-dependent development that require improvements adjacent to the water's edge, such as fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches, swimming beaches or other similar activities shall plant native vegetation on portions of the nearshore riparian area located along the water's edge that are not otherwise being used for the water-dependent activity.

b) All Other Uses – The applicant shall plant native vegetation, as necessary, in at least 75 percent of the nearshore riparian area located along or near the water's edge.

c) In the instance where there is an intervening property between the shoreline and an upland property and the portion of the intervening property abutting the upland property has an average parcel depth of less than 25 feet, shoreline vegetation shall be provided within the shoreline setback portion of the upland property pursuant to this section, unless:

- 1) The required shoreline vegetation already exists on the intervening lot;
- 2) The intervening property owner agrees to installing the shoreline vegetation on their property; or
- 3) A proposal for alternative compliance is approved under the provisions established in subsection (3)(f) of this section.

2) Planting Requirements

a) For uses other than those listed in subsection (3)(b)(2)(b) of this section for detached, attached and stacking dwelling units, the vegetated portion of the nearshore riparian area shall average 10 feet in depth from the OHWM, but may be a minimum of five (5) feet wide to allow for variation in landscape bed shape and plant placement. Total square feet of landscaped area shall be equal to a continuous 10-foot-wide area.

b) For detached, attached or stacked dwelling units within the Residential – M/H shoreline environment, the vegetated portion of the nearshore riparian area shall average 15 feet in depth from the OHWM, but may be a minimum of five (5) feet wide to allow for variation in landscape bed shape and plant placement. Total square feet of landscaped area shall be equal to a continuous 15-foot wide area.

c) The public access walkway required under KZC 83.420 may extend into the required landscape strip as necessary to meet the public pedestrian access requirements, provided that the overall width of the landscape strip is maintained.

d) Installation of native vegetation shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. At least three (3) trees per 100 linear feet of shoreline must be included in the plan, with portions of a tree rounded up to the next required tree. At least 60 percent of the landscape bed shall consist of shrubs to be attained within two (2) years of installation. In locations where there are existing bulkheads, planting shall include species which promote growth overhanging the water.

e) Plant materials must be native and selected from the Kirkland Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester.

c. Use of Existing Vegetation – The City shall accept existing native trees, shrubs and groundcover as meeting the requirements of this subsection, including vegetation previously installed as part of a prior development activity, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation. The City may require the applicant to plant trees, shrubs, and groundcover according to the requirements of this subsection to supplement the native existing vegetation in order to provide a buffer at least as effective as the required buffer.

- d. Landscape Plan Required – The applicant shall submit a landscape plan that depicts the quantity, location, species, and size of plant materials proposed to comply with the requirements of this subsection, and shall address the plant installation and maintenance requirements set forth in Chapter 95 KZC. Plant materials shall be identified with both their scientific and common names. Any required irrigation system must also be shown.
- e. Vegetation Placement – When required either by this subsection or as a mitigation measure, such as for a new pier or dock or structural shoreline stabilization measure, vegetation selection and placement shall comply with the following standards:
- 1) Vegetation shall be selected and positioned on the property so as not to obscure the public view within designated view corridors from the public right-of-way to the lake and to the shoreline on the opposite side of the lake at the time of planting or upon future growth.
 - 2) Vegetation may be selected and positioned to maintain private views to the water by clustering vegetation in a selected area, provided that the minimum landscape standard is met, unless alternative compliance is approved.
- f. Alternative Compliance – Vegetation required by this subsection shall be installed unless the applicant demonstrates one (1) of the following:
- 1) The vegetation will not provide shoreline ecological function due to existing conditions, such as the presence of extensive shoreline stabilization measures that extend landward from the OHWM; or
 - 2) It is not feasible to plant all of the required vegetation on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, or minimum spacing requirements for the vegetation to be planted; or
 - 3) The vegetation will substantially interfere with the use and enjoyment of the portion of the property located between the primary structure and OHWM, such as the existing structure is located in very close proximity to the OHWM; the area in between the primary structure and the OHWM is encumbered by a sanitary sewer, public pedestrian access easement, public access walkway or other constraining factors; or
 - 4) The required vegetation placement will obstruct existing views to the lake, at the time of planting or upon future growth, which cannot otherwise be mitigated through placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the vegetation placement will obstruct existing views to the lake.

The alternate measures must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining and improving shoreline ecological functions and processes.

Requests to use alternative measures shall be reviewed by the Planning Official who may approve, approve with conditions, or deny the request. Cost of producing and implementing the alternative plan, and the fee to review the plan by City staff or the City's consultant shall be borne by the applicant.

If the alternative plan is consistent with the standards provided in this subsection, the Planning Official shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

4. Other Standards

- a. For other general requirements, see Chapter 95 KZC, Tree Management and Landscaping Requirements.
- b. The applicant is encouraged to make significant trees removed under these provisions available for City restoration projects, as needed.

5. Responsibility for Regular Maintenance

- a. The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of vegetation required under this section. Plants that die must be replaced in kind or with similar plants contained on the Native Plant List, or other native or shoreline appropriate species approved by the Planning Official or Urban Forester.
- b. All required vegetation must be maintained throughout the life of the development. Prior to issuance of a certificate of occupancy or final inspection, the proponent shall provide a final as-built landscape plan and a recorded agreement, in a form approved by the City Attorney, to maintain and replace all vegetation that is required by the City. The agreement shall be recorded with the King County Recorder's Office.

(Ord. 4491 § 11, 2015; Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.410 View Corridors

1. General – Development within the commercial and multifamily shoreline areas located between principal arterials and Lake Washington shall include public view corridors that provide the public with an unobstructed view of the water. The intent of the corridor is to provide an unobstructed view from the adjacent public right-of-way to the lake and to the shoreline on the opposite side of the lake.
2. Standards
 - a. For properties lying waterward of Lake Washington Boulevard, Lake Street South and NE Juanita Drive in the Residential M-H shoreline environment designation, a minimum view corridor of 30 percent of the average parcel width must be maintained. A view of the shoreline edge of the subject property shall be provided if existing topography, vegetation, and other factors allow for this view to be retained.
 - b. The view corridors approved for properties located in the Urban Mixed shoreline environment established under a zoning master plan or zoning permit approved under the provisions of Chapter 152 KZC shall continue to comply with those requirements. Modifications to the proposed view corridor shall be considered under the standards established in this chapter and the zoning master plan.
3. Exceptions – The requirement for a view corridor does not apply to the following:
 - a. The following water-dependent uses:
 - 1) Piers and docks associated with a marina or moorage facility for a commercial use;
 - 2) Piers, docks, moorage buoys, boat lifts and canopies associated with detached, attached and stacked unit uses;
 - 3) Tour boat facility, ferry terminal or water taxi, including permanent structures up to 200 square feet in size housing commercial uses ancillary to the facility;
 - 4) Public access pier or boardwalk;
 - 5) Boat launch.
 - b. Public parks.
 - c. Properties located in the Urban Mixed shoreline environment within the Central Business District zone and within the Juanita Business District 4 and 5 zones.
4. View Corridor Location – The location of the view corridor shall be designed to meet the following location standards and must be approved by the Planning Official.
 - a. If the subject property does not directly abut the shoreline, the view corridor shall be designed to coincide with the view corridor of the adjacent properties that abut the lake.

b. The view corridor must be adjacent to one of the two side property lines that intersect the OHWM of the subject property, whichever will result in the widest view corridor, considering the following, in order of priority:

- 1) Locations of existing view corridors.
- 2) Existing development or potential development on adjacent properties, given the topography, access and likely location of future improvements.
- 3) The availability of actual views of the water and the potential of the lot for providing those views from the abutting street.
- 4) Location of existing sight-obscuring structures, parking areas or vegetation that is likely to remain in place in the foreseeable future.

c. The view corridor must be in one (1) continuous piece.

d. For land divisions, the view corridor shall be established as part of the land division and shall be located to create the largest view corridor on the subject property.

5. Permitted Encroachments

a. The following shall be permitted within a view corridor:

- 1) Areas provided for public access, such as public pedestrian walkways, public use areas, or viewing platforms.
- 2) Parking lots and subsurface parking structures; provided, that the parking does not obstruct the view from the public right-of-way to the waters of the lake and the shoreline on the opposite side of the lake.
- 3) Structures if the slope of the subject property permits full, unobstructed views of the lake and the shoreline on the opposite side of the lake over the structures from the public right-of-way.
- 4) Shoreline restoration plantings and existing specimen trees and native shoreline vegetation.
- 5) Vegetation, including required vegetation screening around parking and driving areas and land use buffers, provided it is designed and of a size that will not obscure the view from the public right-of-way to the water and the shoreline on the opposite side of the lake at the time of planting or upon future growth. In the event of a conflict between required site screening and view preservation, view preservation shall take precedents over buffering requirements found in Chapter 95 KZC.
- 6) Open fencing that is designed not to obscure the view from the public right-of-way to the lake and the shoreline on the opposite side of the lake.

6. Dedication – The applicant shall execute a covenant or similar legal agreement, in a form acceptable to the City Attorney, and record the agreement with the King County Recorder’s Office, to protect the view corridor. Land survey information shall be provided by the applicant for this purpose in a format approved by the Planning Official.

(Ord. 4491 § 11, 2015; Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.420 Public Access

1. Treaty Rights - The Muckleshoot Indian Tribe has federally-protected treaty rights to fisheries resources within their usual and accustomed areas (“U&A”), including access to these resources. Kirkland’s regulated shoreline areas are a subset of the Muckleshoot Tribe’s larger “U&A” area. Activities and development regulated under this Shoreline Master Program have the potential to impact treaty-protected fisheries resources and tribal members’ ability to access to these resources. Accordingly, the City will work with the Muckleshoot Tribe to ensure that permitted projects do not unduly impede or impair in-water or upland tribal fishing access.

2. General – Promoting a waterfront pedestrian corridor is an important goal within the City. Providing pedestrian access along Lake Washington enables the public to view and enjoy the scenic beauty, natural resources, and recreational activities that are found along the shoreline. This pedestrian corridor provides opportunities for physical recreation and leisure and serves as a movement corridor. Connections between the shoreline public pedestrian walkway and the public right-of-way serve to link the walkway with the larger city-wide pedestrian network.

The applicant shall comply with the following pedestrian access requirements with new development for all uses, including new, expanded and replacement multifamily and commercial piers, accessory dwelling units in multifamily zones and land divisions under KMC Title 22, pursuant to the standards of this section:

- a. Pedestrian Access Along the Water's Edge – Provide public pedestrian walkways along or near the water's edge.
- b. Pedestrian Access from Water's Edge to Right-of-Way – Provide public pedestrian walkways designed to connect the shoreline public pedestrian walkway to the abutting right-of-way.

23. Exceptions

a. The requirement for the dedication and improvement of public access does not apply to:

1) Development located within the Residential – L shoreline environment, except the following uses and developments that are required to comply with the public access provisions:

- a) Public entities, such as government facilities and public parks; or
 - b) Divisions of land containing five (5) or more new lots located within the shoreline jurisdiction.
- 2) Development located within the Natural shoreline environment.
- 3) Detached dwelling unit on one (1) lot and normal appurtenances associated with this use that is not part of a land division.

342. Public Pedestrian Walkway Location – The applicant shall locate public pedestrian walkways pursuant to the following standards:

- a. The walkways shall be designed and sited to minimize the amount of native vegetation removal, impact to existing significant trees, soil disturbance, and disruption to existing habitat corridor structures and functions.
- b. The walkways shall be located along or near the water's edge between the development and the shoreline at an average of 10 feet but no closer than five (5) feet landward of the OHWM so that the walkway may meander and not be a straight line. In cases where the walkway on the adjoining property has been installed closer to the shoreline than allowed under this provision, the walkway shall extend within five (5) feet of the OHWM in order to connect to the existing walkway.
- c. Locating the walkways adjacent to other public areas including street-ends, waterways, parks, and other public access and connecting walkways shall maximize the public nature of the access.
- d. The walkways shall be situated so as to minimize significant grade changes and the need for stairways.
- e. The walkways shall minimize intrusions of privacy for occupants and residents of the site by avoiding locations directly adjacent to residential windows and outdoor private open spaces, or by screening or other separation techniques.
- f. The walkways shall be located so as to avoid undue interference with the use of the site by water-dependent businesses.

g. The Planning Official shall determine the appropriate location of the walkway on the subject property when planning for the connection of a future waterfront walkway on an adjoining property.

h. In the instance where there is an intervening property between the shoreline and an upland property and the intervening property abutting the shoreline has an average parcel depth of less than 25 feet, the required public pedestrian walkway shall be provided within the required shoreline setback of the upland property pursuant to this section, unless:

- 1) The required public pedestrian walkway already exists on the intervening lot that abuts the shoreline; or
- 2) The intervening property owner agrees to installing the public pedestrian walkway improvement and submitting a public access easement to the City for recording with King County Recorder's Office at the time of the building permit for the upland property; or
- 3) A modification to the public access requirement is granted to the upland property under the provisions established in subsection (6) of this section.

453. Development Standards Required for Pedestrian Improvements – The applicant shall install pedestrian walkways pursuant to the following standards:

- a. The walkways shall be at least six (6) feet wide, but no more than eight (8) feet wide, and contain a permeable paved walking surface, such as unit pavers, grid systems, porous concrete, or equivalent material approved by the Planning Official.
- b. The walkways shall be distinguishable from traffic lanes by pavement material, texture, or change in elevation.
- c. The walkways shall not be included with other impervious surfaces for lot coverage calculations.
- d. Permanent barriers that limit future extension of pedestrian access between the subject property and adjacent properties are not permitted.
- e. Regulated public access shall be indicated by signs installed at the entrance of the public pedestrian walkway on the abutting right-of-way and along the public pedestrian pathway. The signs shall be located for maximum public visibility. Design, materials and location of the signage shall meet City specifications.
- f. All public pedestrian walkways shall be provided through a minimum 6-foot-wide easement or similar legal agreement, in a form acceptable to the City Attorney, and recorded with the King County Recorder's Office. Land survey information shall be provided by the applicant for this purpose in a format approved by the Planning Official.

564. Operation and Maintenance Requirements for Pedestrian Improvements – The following operation and maintenance requirements apply to all public pedestrian walkways required under this section:

- a. Hours of Operation and Limitations on Accessibility – Unless otherwise required by the City, all required pedestrian walkways shall be open to the public between ~~the hours of 10:00 a.m. to dusk and 10 minutes after sunset~~ from March 21st to September 21st and the remainder of the year between ~~the hours of 10:00 a.m. to and 5:00 p.m.~~
- b. The applicant is permitted to secure the subject property outside of the hours of operation noted in subsection (4)(a) of this section by a security gate, subject to the following provisions:
 - 1) The gate shall remain in an open position during hours of permitted public access; and
 - 2) Signage shall be included noting the hours of permitted public access.

- c. The Planning Official is authorized to approve a temporary closure when hazardous conditions are present that would affect public safety.
- d. Performance and Maintenance
 - 1) No certificate of occupancy or final inspection shall be issued until all required public access improvements are completed, except under special circumstances approved by the Planning Official and after submittal of an approved performance security.
 - 2) The owner, its successor or assigns shall be responsible for the completion and maintenance of all required waterfront public access areas and signage on the subject property.

~~5. Exceptions~~

~~a. The requirement for the dedication and improvement of public access does not apply to:~~

- ~~1) Development located within the Residential L shoreline environment, except the following uses and developments that are required to comply with the public access provisions:

 - ~~a) Public entities, such as government facilities and public parks; or~~
 - ~~b) Divisions of land containing five (5) or more new lots located within the shoreline jurisdiction.~~~~
- ~~2) Development located within the Natural shoreline environment.~~
- ~~3) Detached dwelling unit on one (1) lot and normal appurtenances associated with this use that is not part of a land division. For development involving land division, public pedestrian access is required, unless otherwise excepted under this subsection.~~

~~6. Modifications~~

- a. The Planning Official may require or grant a modification to the nature or extent of any required improvement for any of the following reasons:
 - 1) If the presence of critical areas, such as wetlands, streams, or geologically hazardous areas, preclude the construction of the improvements as required.
 - 2) To avoid interference with the operations of water-~~dependant~~ dependent uses, such as marinas.
 - 3) If the property contains unusual site constraints, such as size, configuration, topography, or location.
 - 4) If the access would create unavoidable health or safety hazards to the public.
- b. If a modification is granted, the Planning Official may require that an alternate method of providing public access, such as a public use area or viewing platform, be provided.
- c. Access from the right-of-way to the shoreline public access walkway may be waived by the Planning Official if all of the following criteria are met:
 - 1) If public access along the shoreline of the subject property can be reached from an adjacent property;
 - 2) If the adjacent property providing access to the shoreline contains an existing public access walkway connecting with the public right-of-way and the maximum separation between public access entry points along the public right-of-way is 300 feet or less; and
 - 3) If the subject property does not contain a public use area required as a condition of development by the Planning Official under the provisions of this chapter.

(Ord. 4491 § 11, 2015; Ord. 4251 § 3, 2010)

83.430 In-Water Construction

Standards – The following standards shall apply to in-water work, including, but not limited to, installation of new structures, repair of existing structures, restoration projects, and aquatic vegetation removal:

1. In-water structures and activities shall be sited and designed to avoid the need for future shoreline stabilization activities and dredging, giving due consideration to watershed functions and processes, with special emphasis on protecting and restoring priority habitat and species.
2. In-water structures and activities are not subject to the shoreline setbacks established in KZC 83.180.
3. See KZC 83.370 for federal and state approval and timing restrictions.
4. Removal of existing structures shall be accomplished so the structure and associated material does not re-enter the lake.
5. Waste material and unauthorized fill, such as construction debris, silt or excess dirt resulting from in-water structure installation, concrete blocks or pieces, bricks, asphalt, metal, treated wood, glass, paper and any other similar material upland of or below the OHWM shall be removed.
6. Measurements shall be taken in advance and during construction to ensure that no petroleum products, hydraulic fluid, cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the lake during in-water activities. Appropriate spill clean-up materials must be on-site at all times, and any spills must be contained and cleaned immediately after discovery.
7. In-water work shall be conducted in a manner that causes little or no siltation to adjacent areas. A sediment control curtain shall be used in those instances where siltation is expected. The curtain shall be maintained in a functional manner that contains suspended sediments during project installation.
8. Any trenches, depressions, or holes created below the OHWM shall be backfilled prior to inundation by high water or wave action.
9. Fresh concrete or concrete by-products shall not be allowed to enter the lake at any time during in-water installation. All forms used for concrete shall be completely sealed to prevent the possibility of fresh concrete from entering the lake.
10. Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to perform the in-water work. All disturbed areas shall be protected from erosion using vegetation or other means.
11. If at any time, as a result of in-water work, water quality problems develop, immediate notification shall be made to the Washington State Department of Ecology.

(Ord. 4251 § 3, 2010)

83.440 Parking

1. General
 - a. Only parking associated with a permitted or conditional shoreline use shall be allowed, except that within the Urban Mixed shoreline environment, surface or structured parking facilities may accommodate parking for surrounding uses and commercial parking uses.
 - b. Parking as a primary use on a subject property is prohibited.
2. Number of Parking Spaces – Uses must provide sufficient off-street parking spaces. The required number of parking stalls established in Chapter 105 KZC, KZC 50.60 and with the applicable parking standards for each use shall be met.

3. Parking Location

- a. Intent – To reduce the negative impacts of parking and circulation facilities on public spaces within the shoreline, such as shoreline public pedestrian walkways, public use areas, and view corridors along public rights-of-way.
- b. Standards – The applicant shall locate parking areas on the subject property according to the following requirements:
 - 1) Parking is prohibited in the shoreline setback established in KZC 83.180, except as follows:
 - a) Subsurface parking is allowed, provided that:
 - 1) The structure is designed to avoid the need for future shoreline stabilization as documented in a geotechnical report, prepared by a qualified geotechnical engineer or engineering geologist.
 - 2) The structure is designed to comply with shoreline vegetation standards established in KZC 83.400. As part of any proposal to install subsurface parking within the shoreline setback, the applicant shall submit site-specific documentation prepared by a qualified expert to establish that the design will adequately support the long-term viability of the required vegetation.
 - 3) The structure is designed to not impact public access and views to the lake from the public right-of-way.
 - 4) Public access over subsurface parking structures shall be designed to minimize significant changes in grade.
 - b) The parking is designed as a short-term loading area to support a water-dependent use.
 - 2) Parking is prohibited on structures located over water.
 - 3) Parking, loading, and service areas for a permitted use activity shall not extend closer to the shoreline than a permitted structure unless:
 - a) The parking is incorporated within a structure, subject to the following standards:
 - 1) The parking is subsurface; or
 - 2) The design of any above-grade structured parking incorporates vegetation and/or building surface treatment to provide an appearance comparable to the remainder of the building not used for parking.
 - b) The parking is accessory to a public park.
 - c) The parking is designed as a short-term loading area to support a water-dependent use.

4. Design of Parking Areas

- a. Pedestrian Connections
 - 1) Parking areas shall be designed to contain pedestrian connections to public pedestrian walkways and building entrances. Pedestrian connections shall either be a raised sidewalk or composed of a different material than the parking lot material.
 - 2) Pedestrian connections must be at least five (5) feet wide, excluding vehicular overhang.
- b. Design of Surface Parking Lots – In addition to the perimeter buffering and internal parking lot landscaping provisions established in Chapter 95 KZC, the applicant shall buffer all parking areas and

driveways visible from required public pedestrian walkways or public use areas with appropriate landscaping screening that is consistent with the landscaping and buffering standards for driving and parking areas contained in Chapter 95 KZC.

- c. Design of Structured Parking Facilities – Each facade of a garage or a building containing above-grade structured parking visible from a required view corridor, or facing a public pedestrian walkway, public use area, or public park must incorporate vegetation and/or building surface treatment to mitigate the visual impacts of the structured parking.

(Ord. 4251 § 3, 2010)

83.450 Screening of Storage and Service Areas, Mechanical Equipment and Garbage Receptacles

1. Outdoor Use, Activity and Storage – Outdoor use, activity and storage areas must comply with the following:
 - a. Comply with the shoreline setback established for the use with which they are associated.
 - b. Be located to minimize visibility from any street, Lake Washington, required public pedestrian walkway, public use area or public park.
 - c. Be screened from view from the street, adjacent properties, Lake Washington, required public pedestrian walkways, and other public use areas by a solid screening enclosure or within a building.
 - d. Outdoor dining areas and temporary storage for boats undergoing service or repair that are accessory to a marina are exempt from the placement and screening requirements of subsections (1)(b) and (c) of this section.
2. Mechanical and Similar Equipment or Appurtenances
 - a. At-grade mechanical and similar equipment or appurtenances are not permitted within the shoreline setback.
 - b. Rooftop appurtenances and at or below grade appurtenances shall be screened with vegetation or a solid screening enclosure or located in such a manner as to not be visible from Lake Washington, required public pedestrian walkways, or public use areas.
3. Garbage and Recycling Receptacles – Garbage and recycling receptacles must comply with the following:
 - a. Comply with the shoreline setback established for the use with which they are associated.
 - b. Be located to minimize visibility from any street, Lake Washington, required public pedestrian walkway, public use area or public parks.
 - c. Be screened from view from Lake Washington, required public pedestrian walkways, and other public use areas by a solid screening enclosure, such as a wooden fence without gaps, or within a building.
 - d. Exemptions – Garbage receptacles for detached dwelling units, duplexes, moorage facilities, parks, and construction sites, but not including dumpsters or other containers larger than a typical individual trash receptacle, are exempt from the placement and screening requirements of this subsection.

(Ord. 4251 § 3, 2010)

83.460 Signage

Standards – The following standards shall apply to signs within the shoreline jurisdiction:

1. Signage shall not interfere or block designated view corridors within the shoreline jurisdiction.
2. Signs shall comply with the shoreline setback standards contained in KZC 83.180.
3. Signage shall not be permitted to be constructed over water, except as follows:

- a. For retail establishments providing gas and oil sales for boats, where the facility is accessible from the water:
 - 1) One (1) sign, not exceeding 20 square feet per sign face, is permitted. The sign area for the water-oriented sign shall be counted towards the maximum sign area permitted in Chapter 100 KZC.
 - 2) Internally illuminated signs are not permitted. Low-wattage external light sources that are not directed towards neighboring properties or Lake Washington are permitted, subject to approval by the Planning Official.
 - 3) Signs shall be affixed to a pier or wall-mounted. The maximum permitted height of a freestanding sign is five (5) feet above the surface of the pier. A wall-mounted sign shall not project above the roofline of the building to which it is attached.
- b. Boat traffic signs, directional signs, and signs displaying a public service message.
- c. Interpretative signs in coordination with public access and recreation amenities.
- d. Building addresses mounted flush to the end of a pier, with letters and numbers at least four (4) inches high.

(Ord. 4251 § 3, 2010)

83.470 Lighting

1. General – Exterior lighting shall be controlled using limits on height, light levels of fixtures, light shields, time restrictions and other mechanisms in order to:
 - a. Prevent light pollution or other adverse effects that could infringe upon public enjoyment of the shoreline;
 - b. Protect residential uses from adverse impacts that can be associated with light trespass from higher-intensity uses; and
 - c. Prevent adverse effects on fish and wildlife species and their habitats.
2. Exceptions –
 - a. The following development activities are exempt from the submittal and lighting standards established in this section:
 - 1) Emergency lighting required for public safety;
 - 2) Lighting for public rights-of-way;
 - 3) Outdoor lighting for temporary or periodic events (e.g., community events at public parks);
 - 4) Seasonal decoration lighting; and
 - 5) Sign lighting governed by KZC 83.460.
 - b. The following development activities are exempt from the submittal standards established in subsection (3) of this section, but are still subject to the lighting standards contained in subsection (4) of this section:
 - 1) Development of a detached dwelling unit or associated appurtenances;
 - 2) Piers and docks;
 - 3) Public access pier or boardwalk; and
 - 4) Moorage buoy.

3. Submittal Requirements – All development proposing exterior lighting within the shoreline jurisdiction, except as otherwise indicated in subsection (2) of this section, shall submit a lighting plan and photometric site plan for approval by the Planning Official. The plan shall contain the following:

- a. A brief written narrative, with accompanying plan or sketch that demonstrates the objectives of the lighting.
- b. The location, fixture type, mounting height, and wattage of all outdoor lighting and building security lighting, including exterior lighting mounted on piers or illuminating piers.
- c. A detailed description of the fixtures, lamps, supports, reflectors, and other devices. The description shall include manufacturer's catalog specifications and drawings, including sections when requested.
- d. If building elevations are proposed for illumination, drawings shall be provided for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, and the illuminate levels of the elevations.
- e. Photometric data, such as that furnished by manufacturers, showing the angle of light emissions.
- f. Computer generated photometric grid showing footcandle readings every 20 feet within the property or site, and 15 feet beyond the property lines, including Lake Washington, if applicable. Iso-footcandle contour line style plans are also acceptable.

4. Standards

a. Direction and Shielding

- 1) All exterior building-mounted and ground-mounted light fixtures shall be directed downward and have "fully shielded cut off" fixtures as defined by the Illuminating Engineering Society of North America (IESNA), or other appropriate measure to conceal the light source from adjoining uses, to direct the light towards the ground and away from the shoreline, and to prevent lighting from spilling on to the lake water. For detached dwelling unit or associated appurtenances, this requirement shall apply to any light fixtures that are directed towards or face Lake Washington.
- 2) Exterior lighting mounted on piers, docks or other water-dependent uses located at the shoreline edge shall be at ground or dock level, be directed away from adjacent properties and the water, and designed and located to prevent lighting from spilling onto the lake water.
- 3) For properties located within the Natural shoreline environment, exterior lighting installations shall incorporate motion-sensitive lighting and lighting shall be limited to those areas where it is needed for safety, security, and operational purposes.

b. Lighting Levels

- 1) Exterior lighting installations shall be designed to avoid harsh contrasts in lighting levels.
- 2) For properties located adjacent to a Natural shoreline environment, exterior lighting fixtures shall produce a maximum initial luminance value of 0.1 footcandles (as measured at three (3) feet above grade) at the site or environment boundary.
- 3) For properties in the Urban Mixed shoreline environment located adjacent to residential uses in another shoreline environment or for commercial uses located adjacent to residential uses in the Urban Residential shoreline environment, exterior lighting fixtures shall produce a maximum initial luminance value of 0.6 horizontal and vertical footcandles (as measured at three (3) feet above grade) at the site boundary, and drop to 0.1 footcandles onto the abutting property as measured within 15 feet of the property line.

- 4) Exterior lighting shall not exceed a strength of one (1) footcandle at the water surface of Lake Washington, as measured waterward of the OHWM.
- c. Height of Light Fixtures – The maximum mounting height of ground-mounted light fixtures shall be 12 feet. Height of light fixtures shall be measured from the finished floor or the finished grade of the parking surface, to the bottom of the light bulb fixture.
- d. Other
 - 1) Illumination of a building facade to enhance architectural features is not permitted.
 - 2) Where feasible, exterior lighting installations shall include timers, dimmers, sensors, or photocell controllers that turn the lights off during daylight hours or hours when lighting is not needed, to reduce overall energy consumption and eliminate unneeded lighting.

(Ord. 4251 § 3, 2010)

83.480 Water Quality, Stormwater, and Nonpoint Pollution

1. General – Shoreline development and use shall incorporate all known, available, and reasonable methods of prevention, control, and treatment to protect and maintain surface and/or ground water quantity and quality in accordance with Chapter 15.52 KMC and other applicable laws.
2. Submittal Requirements – All proposals for development activity or land surface modification located within the shoreline jurisdiction shall submit for approval a storm water plan with their application and/or request, unless exempted by the Public Works Official. The storm water plan shall include the following:
 - a. Provisions for temporary erosion control measures; and
 - b. Provisions for storm water detention, water quality treatment and storm water conveyance facilities, in accordance with the City's adopted surface water design manual in effect at the time of permit application.
3. Standards
 - a. Shoreline development shall comply with the standards established in the City's adopted surface water design manual in effect at the time of permit application.
 - b. Shoreline uses and activities shall apply best management practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving properties, wetlands or streams, and Lake Washington are not adversely affected, consistent with the City's adopted surface water design manual. All types of BMPs require regular maintenance to continue to function as intended.

Low impact development techniques shall be considered and implemented to the greatest extent practicable, consistent with the City's adopted surface water design manual.
 - c. New outfalls or discharge pipes to Lake Washington shall be avoided, where feasible. If a new outfall or discharge pipe is demonstrated to be necessary, it shall be designed so that the outfall and energy dissipation pad is installed above the OHWM.
 - d. In addition to providing storm water quality treatment facilities as required in this section and the City's ~~adopted Surface-surface Water-water Master Plan~~ design manual, the developer and/or property owner shall provide source control BMPs designed to treat or prevent storm water pollution arising from specific activities expected to occur on the site. Examples of such specific activities include, but are not limited to, car washing at detached, attached stacked (multifamily) residential sites and oil storage at marinas providing service and repair.
 - e. No release of oils, hydraulic fluids, fuels, paints, solvents or other hazardous materials shall be permitted into Lake Washington. If water quality problems occur, including equipment leaks or spills, work operations

shall cease immediately and the Public Works Department and other agencies with jurisdiction shall be contacted immediately to coordinate spill containment and cleanup plans.

It shall be the responsibility of property owners to fund and implement the approved spill containment and cleanup plans and to complete the work by the deadline established in the plans.

f. All materials that come into contact with water shall be constructed of untreated wood, cured concrete, steel or other approved nontoxic materials. Materials used for overwater decking or other structural components that may come into contact with water shall comply with regulations of responsible agencies (i.e., Washington State Department of Fish and Wildlife or Department of Ecology) to avoid discharge of pollutants.

g. The application of pesticides, herbicides, or fertilizers shall comply with the following standards:

1) The application of pesticides, herbicides or fertilizers within shoreline setbacks shall utilize best management practices (BMPs) outlined in the BMPs for Landscaping and Lawn/Vegetation Management ~~Section of the 2005 Stormwater Management in the City's adopted surface water design Manual for Western Washington~~, to prevent contamination of surface and ground water and/or soils, and adverse effects on shoreline ecological functions and values.

2) These BMPs practices include not applying if it is raining or about to rain, ensuring sprinkler systems do not spray beyond vegetated areas resulting in the excess water discharging into the lake, stream or storm drain system, and clean up immediately after spills.

3) Pesticides, herbicides, or fertilizers shall be applied in a manner that minimizes their transmittal to adjacent water bodies. The direct runoff of chemical-laden waters into adjacent water bodies is prohibited. Spray application of pesticides shall not occur within 100 feet of open waters including the lake, wetlands, ponds, and streams, sloughs and any drainage ditch or channel that leads to open water except when approved by the City.

4) The use of pesticides, herbicides or fertilizers within the shoreline's jurisdiction, including applications of herbicides to control noxious aquatic vegetation, shall comply with regulations of responsible federal and state agencies.

5) A copy of the applicant's National Pollutant Discharge Elimination System (NPDES) permit, issued from Washington State Department of Ecology, authorizing aquatic pesticide (including herbicides) to Lake Washington must be submitted to the Planning and Building Department prior to the application.

83.490 Critical Areas: Wetlands, Streams, Fish and Wildlife Habitat Conservation Areas, and Frequently Flooded Areas –General Standards

1. Applicable Critical Areas Regulations – The following critical areas and their buffers located within shoreline jurisdiction shall be regulated in accordance with the provisions of KZC Chapter 90-Critical Areas, adopted [Date to be added] (Ordinance #), which is herein incorporated by reference into this SMP, with the exclusions, clarifications and modifications contained in this section.

a. Wetlands

b. Streams

c. Fish and wildlife habitat conservation areas

d. Frequently flooded areas; and

e. Vegetative buffers required for the above.

2. Review Process – The City shall consolidate and integrate the review and processing of the critical areas aspects of the proposal with the shoreline permit or review required for the proposed activity. Any references in Chapter 90

to process, standards or decision criteria are supplemental and do not replace the SMP requirements contained within this chapter and Chapter 141.

23. Conflicting provisions -- Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with the provision adopted by reference and the Shoreline Master Program. Within shoreline jurisdiction, the regulations of KZC Chapter 90 shall be liberally construed together with the Shoreline Master Program to give full effect to the objectives and purposes of the provisions of the Shoreline Master Program and the Shoreline Management Act. If there is a conflict or inconsistency between any of the adopted provisions below and the Shoreline Master Program, the most restrictive provisions shall prevail.

34. The following sections of KZC Chapter 90 shall not apply within the shoreline jurisdiction:

- a. KZC 90.30- City Review Process
- b. KZC 90.35- Exemptions
- dc. KZC 90.-45 Public Agency and Public Utility Exceptions
- fd. KZC 90.90 – Minor Lakes - Totem Lake and Forbes Lake
- ge. KZC 90.180 – Reasonable Use Exception
- hf. KZC 90.185 - Nonconformances
- ig. KZC 90.220 – Appeals
- jh. KZC 90.225 –Lapse of Approval
- i. KZC 90.60.2 – Exception for wetland modification
- j. KZC 90.120.2 – Type F Stream Buffer Waiver.

5. Frequently flooded areas shall also be subject to the flood hazard reduction standards in 83.530.

1. The provisions of this chapter do not extend beyond the shorelines jurisdiction limits specified in this chapter and the Act. The following critical areas are regulated under shorelines jurisdiction:

- a. Wetlands associated with Lake Washington (those wetlands that drain into the lake);
- b. Wetlands unassociated with Lake Washington and wetland buffers located within 200 feet of the OHWM;
- e. Streams and buffers within 200 feet of the OHWM; and
- d. Frequently flooded areas and geologically hazardous areas within 200 feet of the OHWM.

For regulations addressing critical areas and buffers that are outside of the shorelines jurisdiction, see Chapters 85 and 90 KZC.

2. Avoiding Impacts to Critical Areas

a. An applicant for a land surface modification or development permit within a critical area or its associated buffer shall utilize the following mitigation sequencing guidelines, that appear in order of preference, during design of the proposed project:

- 1) Avoiding the impact or hazard by not taking a certain action, or redesigning the proposal to eliminate the impact. The applicant shall consider reasonable, affirmative steps and make best efforts to avoid critical area impacts. If impacts cannot be avoided through redesign, or because of site conditions or

~~project requirements, the applicant shall then proceed with the following sequence of steps in subsection (2)(a)(2) through (7) of this section.~~

~~2) — Minimizing the impact or hazard by limiting the degree or magnitude of the action or impact with appropriate technology or by changing the timing of the action.~~

~~3) — Restoring the impacted critical areas by repairing, rehabilitating or restoring the affected critical area or its buffer.~~

~~4) — Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through plantings, engineering or other methods.~~

~~5) — Reducing or eliminating the impact or hazard over time by preservation or maintenance operations during the life of the development proposal, activity or alteration.~~

~~6) — Compensating for the adverse impact by enhancing critical areas and their buffers or creating substitute critical areas and their buffers as required in KZC 83.500 and 83.510.~~

~~7) — Monitoring the impact, hazard or success of required mitigation and taking remedial action based upon findings over time.~~

~~In the required critical areas study, the applicant shall include a discussion of how the proposed project will utilize mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas and associated buffers. The applicant shall seek to avoid, minimize and mitigate overall impacts based on the functions and values of all relevant critical areas.~~

~~b. — In addition to the above steps, the specific development standards, permitted alteration requirements, and mitigation requirements of this chapter and elsewhere in this code apply.~~

~~e. — In determining the extent to which the proposal shall be further redesigned to avoid and minimize the impact, the City may consider the purpose, effectiveness, engineering feasibility, commercial availability of technology, best management practices, safety and cost of the proposal and identified modifications to the proposal. The City may also consider the extent to which the avoidance of one (1) type or location of a critical area could require or lead to impacts to other types or locations of nearby or adjacent critical areas. The City~~

~~— shall document the decision making process used under this subsection as a part of the critical areas review conducted pursuant to KZC 83.500 and 83.510.~~

~~3. — Trees in Critical Areas or Critical Area Buffers~~

~~a. — General — The intent of preserving vegetation in and near streams and wetlands and in geologically hazardous areas is to support the functions of healthy sensitive areas and sensitive area buffers and/or avoid disturbance of geologically hazardous areas.~~

~~b. — Submittal Requirements — When proposing to trim or remove any tree located within critical areas or critical area buffers, the property owner must submit a report to the City containing the following:~~

~~1) — A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of structures, driveways, access ways and easements.~~

~~2) — An arborist report explaining how the tree(s) fit the criteria for a nuisance or hazard tree. This requirement may be waived by the Planning Official if it is determined that the nuisance or hazard condition is obvious.~~

~~3) — A proposal detailing how the tree will be made into a snag or wildlife tree, including access and equipment, snag height, and placement of woody debris.~~

~~4) — For required replacement trees, a planting plan showing location, size and species of the new trees.~~

e. ~~Tree Removal Standards~~

1) ~~If a tree meets the criteria of a nuisance or hazard in a critical area or its buffer as described below, then a “snag” or wildlife tree shall be created. If creation of a snag is not feasible, then the felled tree shall be left in place unless the Planning Official permits its removal in writing.~~

a) ~~Hazard Tree Criteria—A hazard tree must meet the following criteria:~~

1) ~~The tree must have a combination of structural defects and/or disease that makes it subject to a high probability of failure and is in proximity to moderate-high frequency of persons or property; and~~

2) ~~The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices.~~

b) ~~Nuisance Tree Criteria—A nuisance tree must meet the following criteria:~~

1) ~~The tree is causing obvious, physical damage to private or public structures, including but not limited to: sidewalk, curb, road, driveway, parking lot, building foundation, and roof;~~

2) ~~The tree has been damaged by past maintenance practices that cannot be corrected with proper arboricultural practices; or~~

3) ~~The problems associated with the tree must be such that they cannot be corrected by any other reasonable practice including, but not limited to, the following:~~

• ~~Pruning of the crown or roots of the tree and/or small modifications to the site-improvements, including but not limited to a driveway, parking lot, patio or sidewalk, to alleviate the problem.~~

• ~~Pruning, bracing, or cabling to reconstruct a healthy crown.~~

2) ~~The removal of any tree will require the planting of a native tree of a minimum of six (6) feet in height in close proximity to where the removed tree was located. The Planning Official shall approve the selection of native species and timing of installation.~~

4. ~~Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers~~

a. ~~Plants intended to mitigate for the loss of natural resource values are subject to the following requirements.~~

1) ~~Plant Source—Plant materials must be native and selected from the Kirkland Plant List or otherwise approved by the City’s Urban Forester. Seed source must be as local as feasible, and plants must be nursery propagated unless transplanted from on-site areas approved for disturbance. These requirements must be included in the Mitigation Plan specifications.~~

2) ~~Installation—Plant materials must be supported only when necessary due to extreme winds at the planting site. Where support is necessary, stakes, guy wires, or other measures must be removed as soon as the plant can support itself, usually after the first growing season. All fertilizer applications to turf or trees and shrubs shall follow Washington State University, National Arborist Association or other accepted agronomic or horticultural standards.~~

3) ~~Fertilizer Applications—Fertilizers shall be applied in such a manner as to prevent their entry into waterways and wetlands and minimize entry into storm drains. No applications shall be made within 50 feet of a waterway or wetland, or a required buffer, whichever is greater, unless specifically authorized in an approved mitigation plan or otherwise authorized in writing by the Planning Official.~~

(Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.500 Wetlands

1. ~~— Applicability—The following provisions shall apply to wetlands and wetland buffers located within the shorelines jurisdiction, in place of provisions contained in Chapter 90 KZC. Provisions contained in Chapter 90 KZC that are not addressed in this section continue to apply, such as bond or performance security, dedication and liability, but the following sections shall not apply within the shorelines jurisdiction:~~

- a. ~~— KZC 90.20— General Exceptions;~~
- b. ~~— KZC 90.30— Definitions;~~
- e. ~~— KZC 90.75— Totem Lake and Forbes Lake;~~
- d. ~~— KZC 90.140— Reasonable Use Exception;~~
- e. ~~— KZC 90.160— Appeals;~~
- f. ~~— KZC 90.170— Planning/Public Works Official Decisions— Lapse of Approval.~~

2. ~~— Wetland Determinations, Delineations, Regulations, Criteria, and Procedures—All determinations and delineations of wetlands shall be made using the criteria and procedures contained in the approved federal wetland delineation manual and applicable regional supplements. All determinations, delineations, and regulations of wetlands shall be based on the entire extent of the wetland, irrespective of property lines, ownership patterns, or other factors.~~

3. ~~— Wetland Determinations—Either prior to or during review of a development application, the Planning Official shall determine whether a wetland or its buffer is present on the subject property using the following provisions:~~

a. ~~— During or immediately following a site inspection, the Planning Official shall make an initial assessment as to whether any portion of the subject property or surrounding area (that shall be the area within 250 feet of the subject property measured in all directions within 250 feet of the OHWM) meets the definition of a wetland. If this initial site inspection does not indicate the presence of a wetland on the subject property or surrounding area, no additional wetland studies will be required at that time.~~

~~However, if the initial site inspection or information subsequently obtained indicates the presence of a wetland on the subject property or surrounding area, then the applicant shall follow the procedure in subsection (3)(b) of this section.~~

b. ~~— If the initial site inspection or information subsequently obtained indicates that a wetland may exist on or near the subject property or surrounding area, the applicant shall either (1) fund a study and report prepared by the City's consultant; or (2) submit a report prepared by a qualified professional approved by the City, and fund a review of this report by the City's wetland consultant.~~

e. ~~— If a wetland study and report are required, at a minimum the report shall include the following:~~

- 1) ~~— A summary of the methodology used to conduct the study;~~
- 2) ~~— A professional survey that is based on the KCAS or plat-bearing system and tied to a known monument, depicting the wetland boundary on a map of the surrounding area which shows the wetland and its buffer;~~
- 3) ~~— A description of the wetland habitat(s) found throughout the entire wetland (not just on the subject property) using the U.S. Fish and Wildlife Service classification system (Classification of Wetlands and Deepwater Habitats in the U.S., Cowardin et al., 1979);~~
- 4) ~~— A description of nesting, denning, and breeding areas found in the wetland or its surrounding area;~~
- 5) ~~— A description of the surrounding area, including any drainage systems entering and leaving the wetland, and a list of observed or documented plant and wildlife species;~~

6) — A description of historical, hydrologic, vegetative, topographic, and soil modifications, if any;

7) — A proposed classification of the wetland as Category I, II, III, or IV wetland; and

8) — A completed rating form using the Washington State Wetland Rating System for Western Washington — Revised (Washington State Department of Ecology Publication No. 04-06-025, or latest version). [Note: When a wetland buffer outside of shorelines jurisdiction is proposed to be modified, the wetland in shorelines jurisdiction must be rated using the methodology required by Chapter 90 KZC to determine the appropriate buffer width. Ecology’s rating system and the corresponding buffers only apply to those wetlands and buffers located in shorelines jurisdiction.]

d. — Formal determination of whether a wetland exists on the subject property, as well as its boundaries and rating, shall be made by the Planning Official after preparation and review of the delineation report, if applicable, by the City’s consultant. The Planning Official’s decision under this section shall be used for review of any development permit or activity proposed on the subject property for which an application is received within five (5) years of the delineation report; provided, that the Planning Official may modify any decision whenever physical circumstances have markedly and demonstrably changed on the subject property or the surrounding area as a result of natural processes or human activity.

4. — Wetland Buffers and Setbacks

a. — No land surface modification shall occur and no improvement may be located in a wetland or its buffer, except as provided in subsections (4) through (10) of this section. See also KZC 83.490(3), Trees in Critical Areas or Critical Area Buffers, and KZC 83.490(4), Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers.

Required or standard buffers for wetlands are as follows and are measured from the outer edge of the wetland boundary:

—Wetland Buffers

WETLAND CATEGORY AND CHARACTERISTICS	BUFFER
Category I	
Natural Heritage Wetlands	215 feet
Bog	215 feet
Habitat score ¹ from 29 to 36 points	225 feet
Habitat score from 20 to 28 points	150 feet
Other Category I wetlands	125 feet
Category II	
Habitat score from 29 to 36 points	200 feet
Habitat score from 20 to 28 points	125 feet
Other Category II wetlands	100 feet
Category III	
Habitat score from 20 to 28 points	125 feet
Other Category III wetlands	75 feet
Category IV	
	50 feet

~~†Habitat score is one (1) of three (3) elements of the rating form.~~

~~Note: Buffer widths were developed by King County for its urban growth areas using the best available science information presented in *Chapter 9: Wetlands of Best Available Science—Volume I: A Review of Scientific Literature*.~~

~~Modification to Buffer for Divided Wetland Buffer—Where a legally established, improved public right-of-way, improved easement road or existing structure divides a wetland buffer, the Planning Official may approve a modification of the required buffer in that portion of the buffer isolated from the wetland by the road or structure, provided the isolated portion of the buffer:~~

- ~~1) Does not provide additional protection of the wetland from the proposed development; and~~
- ~~2) Provides insignificant biological, geological or hydrological buffer functions relating to the portion of the buffer adjacent to the wetland.~~

~~b. Buffer Setback—Structures shall be set back at least 10 feet from the designated or modified wetland buffer. The City may allow minor improvements within this setback that would clearly have no adverse effect during their construction, installation, use, or maintenance, on fish, wildlife, or their habitat or any vegetation in the buffer or adjacent wetland.~~

~~e. Storm Water Discharge—Necessary surface discharges of storm water through wetland buffers and buffer setbacks may be allowed on the surface, but piped system discharges are prohibited unless approved pursuant to this section.~~

~~Storm water outfalls (piped systems) may be located within the buffer setback specified in subsection (4)(b) of this section and within the buffers specified in subsection (4)(a) of this section only when the City determines, based on a report prepared by a qualified professional under contract to the City and paid for by the applicant, that:~~

- ~~1) Surface discharge of storm water through the buffer would clearly pose a threat to slope stability; and~~
- ~~2) The storm water outfall will not:

 - ~~a) Adversely affect water quality;~~
 - ~~b) Adversely affect fish, wildlife, or their habitat;~~
 - ~~c) Adversely affect drainage or storm water detention capabilities;~~
 - ~~d) Lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and~~
 - ~~e) Be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas.~~~~

~~Storm water outfalls shall minimize potential impacts to the wetland or wetland buffer by meeting the following design standards:~~

- ~~1) Catch basins must be installed as far as feasible from the buffer boundary.~~
- ~~2) Outfalls must be designed to reduce the chance of adverse impacts as a result of concentrated discharges from pipe systems. This may include:

 - ~~a) Installation of the discharge end as far as feasible from the sensitive area; and~~
 - ~~b) Use of appropriate energy dissipation at the discharge end.~~~~

~~d.— Water Quality Facilities—Water quality facilities, as determined by the City, may be located within the required wetland buffers of subsection (4)(a) of this section. The City may only approve a proposal to install a water quality facility within the outer one-half (1/2) of a wetland buffer if a feasible location outside of the buffer is not available and only if:~~

- ~~1) It will not adversely affect water quality;~~
- ~~2) It will not adversely affect fish, wildlife, or their habitat;~~
- ~~3) It will not adversely affect drainage or storm water detention capabilities;~~
- ~~4) It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;~~
- ~~5) It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas;~~
- ~~6) The existing buffer is already degraded as determined by a qualified professional;~~
- ~~7) Installation would be followed immediately by enhancement of an area equal in size and immediately adjacent to the affected portion of the buffer; and~~
- ~~8) Once installed, it would not require any further disturbance or intrusion into the buffer.~~

~~The City may only approve a proposal by a public agency to install a water quality facility elsewhere in a wetland buffer if the criteria in subsections (4)(d)(9) through (11) of this section is met in addition to subsections (4)(d)(1) through (8) of this section:~~

- ~~9) The project includes enhancement of the entire buffer;~~
- ~~10) The project would provide an exceptional ecological benefit off site; and~~
- ~~11) There is no feasible alternative proposal that results in less impact to the buffer.~~

~~e.— Utilities and Rights of Way—The following work may only be allowed in critical areas and their buffers subject to City review after appropriate mitigation sequencing in KZC 83.490(2) has been considered and implemented, provided that activities will not increase the impervious area or reduce flood storage capacity:~~

- ~~1) All utility work in improved City rights of way;~~
- ~~2) All normal and routine maintenance, operation and reconstruction of existing roads, streets, and associated rights of way and structures; and~~
- ~~3) Construction of sewer or water lines that connect to existing lines in a sensitive area or buffer where no feasible alternative location exists based on an analysis of technology and system efficiency.~~

~~All affected critical areas and buffers shall be expeditiously restored to their pre-project condition or better. For purposes of this subsection only, “improved City rights of way” include those rights of way that have improvements only underground, as well as those with surface improvements.~~

~~f.— Minor Improvements—Minor improvements may be located within the sensitive area buffers specified in subsection (4)(a) of this section. These minor improvements shall only be located within the outer one-half (1/2) of the sensitive area buffer, except where approved stream crossings are made.~~

~~The City may only approve a proposal to construct a minor improvement within an environmentally sensitive area buffer if:~~

- ~~1) It will not adversely affect water quality;~~

- ~~2) — It will not adversely affect fish, wildlife, or their habitat;~~
- ~~3) — It will not adversely affect drainage or storm water detention capabilities;~~
- ~~4) — It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;~~
- ~~5) — It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas; and~~
- ~~6) — It supports public or private shoreline access.~~

~~The City may require the applicant to submit a report prepared by a qualified professional that describes how the proposal will or will not comply with the criteria for approving a minor improvement.~~

~~5. — Wetland Buffer Fence or Barrier — Prior to beginning development activities, the applicant shall install a 6-foot high construction phase chain link fence or equivalent fence with silt screen fabric, as approved by the Planning Official and consistent with City standards, along the upland boundary of the entire wetland buffer. The construction phase fence shall remain upright in the approved location for the duration of development activities.~~

~~Upon project completion, the applicant shall install between the upland boundary of all wetland buffers and the developed portion of the site, either (a) a permanent 3 to 4 foot tall split rail fence; or (b) equivalent barrier, as approved by the Planning Official. Installation of the permanent fence or equivalent barrier must be done by hand where necessary to prevent machinery from entering the wetland or its buffer.~~

~~6. — Permit Process — The City shall consolidate and integrate the review and processing of the critical areas aspects of the proposal with the shoreline permit required for the proposed development activity, except as follows:~~

Development Proposal	Permit Process
Wetland modifications, or wetland buffer modifications affecting greater than 25 percent of the standard buffer	Shoreline variance pursuant to Process IIA, described in Chapter 141 KZC
Wetland buffer modifications affecting 25 percent or less of the standard buffer	Underlying development permit or development activity
Wetland restoration plans	Underlying development permit or development activity

~~7. — Modification of Wetlands~~

~~a. — No land surface modification shall occur and no improvement shall be located in a wetland, except as provided in this subsection. Furthermore, all modifications of a wetland shall be consistent with Kirkland’s Streams, Wetlands and Wildlife Study (The Watershed Company, 1998) and the Kirkland Sensitive Areas Regulatory Recommendations Report (Adolfson Associates, Inc., 1998).~~

~~b. — Submittal Requirements — The applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City’s consultant. The report shall include the following:~~

- ~~1) — A determination and delineation of the sensitive area and sensitive area buffer containing all the information specified in subsection (3) of this section for a wetland;~~
- ~~2) — A description of the area of the site that is within the sensitive area or within the setbacks or buffers required by this chapter;~~
- ~~3) — An analysis of the impact that the amount of development proposed would have on the sensitive area and the sensitive area buffer;~~
- ~~4) — An analysis of the mitigation sequencing as outlined in KZC 83.490(2);~~

~~5) — An assessment of the habitat, water quality, storm water detention, ground water recharge, shoreline protection, and erosion protection functions of the wetland and its buffer. The report shall also assess the effects of the proposed modification on those functions;~~

~~6) — Sensitive site design and construction staging of the proposal so that the development away from the sensitive area and/or sensitive area buffer will minimize net loss of sensitive area and/or sensitive area buffer functions to the greatest extent feasible;~~

~~7) — A description of protective measures that will be undertaken, such as siltation curtains, hay bales and other siltation prevention measures, and scheduling the construction activity to avoid interference with wildlife and fisheries rearing, nesting or spawning activities;~~

~~8) — Information specified in subsection (8) of this section;~~

~~9) — An evaluation of the project's consistency with the shoreline variance criteria contained in WAC 173-27-170; and~~

~~10) — Such other information or studies as the Planning Official may reasonably require.~~

~~e. — Decisional Criteria — The City may only approve an improvement or land surface modification in a wetland if:~~

~~1) — The project demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2);~~

~~2) — It will not adversely affect water quality;~~

~~3) — It will not adversely affect fish, wildlife, or their habitat;~~

~~4) — It will not have an adverse effect on drainage and/or storm water detention capabilities;~~

~~5) — It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;~~

~~6) — It will not be materially detrimental to any other property or the City as a whole;~~

~~7) — Compensatory mitigation is provided in accordance with the table in subsection (8) of this section;~~

~~8) — Fill material does not contain organic or inorganic material that would be detrimental to water quality or fish and wildlife habitat;~~

~~9) — All exposed areas are stabilized with vegetation normally associated with native wetlands and/or buffers, as appropriate; and~~

~~10) — There is no feasible alternative development proposal that results in less impact to the wetland and its buffer.~~

~~8. — Compensatory Mitigation — All approved impacts to regulated wetlands require compensatory mitigation so that the goal of no net loss of wetland function, value, and acreage is achieved. A mitigation proposal must utilize the mitigation ratios specified below as excerpted from: Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10, March 2006. *Wetland Mitigation in Washington State — Part 1: Agency Policies and Guidance (Version 1)*. Washington State Department of Ecology Publication No. 06-06-011a. Olympia, WA.~~

Compensatory Mitigation

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only ¹	Re-establishment or Creation (R/C) and Rehabilitation (RH) ¹	Re-establishment or Creation (R/C) and Enhancement (E) ¹	Enhancement Only ¹
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I—based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not allowed	6:1 Rehabilitation of a Natural Heritage site	Not allowed	Not allowed	Case-by-case
Category I Bog	Not allowed	6:1 Rehabilitation of a bog	Not allowed	Not allowed	Case-by-case

¹These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

9. Wetland Buffer Modification

a. Departures from the standard buffer requirements shall be approved only after the applicant has demonstrated consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2).

b. Approved departures from the standard buffer requirements of subsection (4) of this section allow applicants to modify the physical and biological conditions of portions of the standard buffer for the duration of the approved project. These approved departures from the standard buffer requirements do not permanently establish a new regulatory buffer edge. Future development activities on the subject property may be required to re-establish the physical and biological conditions of the standard buffer.

e. **Modification of Wetland Buffers When Wetland Is Also to Be Modified**—Wetland buffer impact is assumed to occur when wetland fill or modification is proposed. Any proposal for wetland fill/modification shall include provisions for establishing a new wetland buffer to be located around the compensatory mitigation sites and to be equal in width to its standard buffer specified in subsection (4)(a) of this section or a buffer reduced in accordance with this section by no more than 25 percent of the standard buffer width in all cases, regardless of wetland category or basin type.

d. **Modification of Wetland Buffers When Wetland Is Not to Be Modified**—No land surface modification may occur and no improvement may be located in a wetland buffer, except as provided for in this subsection.

1) **Types of Buffer Modifications**—Buffers may be reduced through one (1) of two (2) means, either (a) buffer averaging, or (b) buffer reduction with enhancement. A combination of these two (2) buffer reduction approaches shall not be used:

~~a) — Buffer averaging requires that the area of the buffer resulting from the buffer averaging is equal in size and quality to the buffer area calculated by the standards specified in subsection (4) of this section. Buffers may not be reduced at any point by more than 25 percent of the standards specified in subsection (4) of this section, unless approved through a shoreline variance. Buffer averaging calculations shall only consider the subject property.~~

~~b) — Buffers may be decreased through buffer enhancement. The applicant shall demonstrate that through enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features, such as downed logs or snags, or other means), the reduced buffer will function at a higher level than the existing standard buffer.~~

~~The reduced on-site buffer area must be planted and maintained as needed to yield over time a reduced buffer that is equivalent to undisturbed Puget lowland forests in density and species composition. At a minimum, a buffer enhancement plan shall provide the following: (1) a map locating the specific area of enhancement; (2) a planting plan that uses native species, including groundcover, shrubs, and trees; and (3) a monitoring and maintenance program prepared by a qualified professional consistent with the standards specified in subsection (10) of this section.~~

~~Buffers may not be reduced at any point by more than 25 percent of the standards in subsection (4)(a) of this section. Buffer reductions of more than 25 percent approved through a shoreline variance will be assumed to have direct wetland impacts that must be compensated for as described in subsection (8) of this section.~~

~~2) — Decisional Criteria — An improvement or land surface modification may be approved in a wetland buffer only if:~~

~~a) — The development activity or buffer modification demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2);~~

~~b) — It is consistent with Kirkland's Streams, Wetlands and Wildlife Study (The Watershed Company, 1998) and the Kirkland Sensitive Areas Regulatory Recommendations Report (Adolfson Associates, Inc., 1998);~~

~~c) — It will not adversely affect water quality;~~

~~d) — It will not adversely affect fish, wildlife, or their habitat;~~

~~e) — It will not have an adverse effect on drainage and/or storm water detention capabilities, ground-water recharge or shoreline protection;~~

~~f) — It will not lead to unstable earth conditions or create an erosion hazard;~~

~~g) — It will not be materially detrimental to any other property or the City as a whole;~~

~~h) — Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;~~

~~i) — All exposed areas are stabilized with vegetation normally associated with native wetland buffers, as appropriate; and~~

~~j) — There is no feasible alternative development proposal that results in less impact to the buffer.~~

~~As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's consultant. The report shall assess the water quality, habitat, drainage or storm water detention, ground-water recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the 10 criteria listed in subsection (9)(d)(2) of this section.~~

~~10.— On Site Versus Off Site Mitigation— On site mitigation for a wetland or its buffer is preferable to off site mitigation. Given on site constraints, the City may approve a plan to implement all or a portion of the required mitigation off site, if the off site mitigation is within the same drainage basin as the property that will be impacted by the project. The applicant shall demonstrate that the off site mitigation will result in higher wetland functions, values, and/or acreage than on-site mitigation. Required compensatory mitigation ratios shall be the same for on-site or off site mitigation, or a combination of both.—~~

~~If the proposed on-site or off-site mitigation plan will result in the creation or expansion of a wetland or its buffer on any property other than the subject property, the plan shall not be approved until the applicant submits to the City a copy of a statement signed by the owners of all affected properties, in a form approved by the City Attorney and recorded in the King County Bureau of Elections and Records, consenting to the wetland and/or buffer creation or increase on such property and to the required maintenance and monitoring that may follow the creation or expansion of a wetland or its buffer.—~~

~~11.— Mitigation Plan and Monitoring and Maintenance Program— Applicants proposing to alter wetlands or their buffers shall submit a mitigation plan prepared by a qualified professional. The mitigation plan shall consist of a description of the existing functions and values of the wetlands and buffers affected by the proposed project, the nature and extent of impacts to those areas, and the mitigation measures to offset those impacts. The mitigation plan shall also contain a drawing that illustrates the compensatory mitigation elements. The plan and/or drawing shall list plant materials and other habitat features to be installed.—~~

~~To ensure success of the mitigation plan, the applicant shall submit a monitoring and maintenance program prepared by a qualified professional. At a minimum, the monitoring and maintenance plan shall include the following:~~

- ~~a.— The goals and objectives for the mitigation plan;~~
- ~~b.— Success criteria by which the mitigation will be assessed;~~
- ~~c.— Plans for a 5 year monitoring and maintenance program;~~
- ~~d.— A contingency plan in case of failure; and~~
- ~~e.— Proof of a written contract with a qualified professional who will perform the monitoring program.—~~

~~The monitoring program shall consist of at least two (2) site visits per year by a qualified professional, with annual progress reports submitted to the City and all other agencies with jurisdiction.—~~

~~The cost of producing and implementing the mitigation plan, the monitoring and maintenance program, reports, and drawing, as well as the review of each component by the City's wetland consultant, shall be borne by the applicant.—~~

~~6. Shoreline Variance for Wetland and Stream Modifications and Related Impacts to their or Wetland Buffer Buffers Modification— An applicant who is unable to comply with the specific standards of ~~this section~~ Chapter 90 must obtain a shoreline variance, pursuant to KZC 141.70(3) and meet the criteria set forth in WAC ~~483.173~~ 27-170. In addition, the following City submittal requirements and criteria must also be met:~~

- a. Submittal Requirements – As part of the shoreline variance request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's qualified professional. The report shall include the following:
 - 1) A determination and delineation of the critical area and critical area buffer containing all the information specified in KZC ~~83.490.3 and KZC 83.490.4~~ Chapter 90;
 - 2) An analysis of whether any other proposed development with less impact on the critical area and critical area buffer is feasible;

- 3) Sensitive site design and construction staging of the proposal so that the development will have the least feasible impact on the critical area and critical area buffer;
 - 4) A description of the area of the site that is within the critical area and its buffer required by this chapter;
 - 5) A description of protective measures that will be undertaken, such as siltation curtains, hay bales and other siltation prevention measures, and scheduling the construction activity to avoid interference with wildlife and fisheries rearing, nesting or spawning activities;
 - 6) An analysis of the impact that the proposed development would have on the critical area and its buffer;
 - 7) How the proposal minimizes net loss of critical area and/or critical area buffer functions to the greatest extent feasible;
 - 8) Whether the improvement is located away from the critical area and the critical area buffer to the greatest extent feasible;
 - 9) ~~Information specified in KZC 83.500.6 forfor a description of wetland~~ compensatory mitigation;
 - 10) Such other information or studies as the Planning Official may require.
- b. Decisional Criteria – The City may grant approval of a shoreline variance only if all of the following criteria are met:
- 1) No other permitted type of land use for the property with less impact on the critical area and its buffer is feasible;
 - 2) The proposal has the minimum area of disturbance;
 - 3) The proposal maximizes the amount of existing tree canopy that is retained;
 - 4) The proposal utilizes to the maximum extent feasible innovative construction, design, and development techniques, including pervious surfaces, that minimize to the greatest extent feasible net loss of critical area functions and values;
 - 5) The proposed development does not pose an unacceptable threat to the public health, safety, or welfare on or off the property;
 - 6) The proposal meets the mitigation, ~~maintenance, and monitoring plan~~ standards in KZC ~~83.490.17Chapter 90 and maintenance, and monitoring program requirements of KZC 83.490.18;~~
 - 7) The granting of the shoreline variance will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures under similar circumstances.

~~13.—Wetland Restoration—City approval is required prior to wetland restoration. The City may permit or require the applicant or property owner to restore and maintain a wetland and/or its buffer by removing material detrimental to the area, such as debris, sediment, or vegetation. The City may also permit or require the applicant to restore a wetland or its buffer through the addition of native plants and other habitat features. See also KZC 83.490(3), Trees in Critical Areas or Critical Area Buffers; and KZC 83.490(4), Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Restoration may be required whenever a condition detrimental to water quality or habitat exists. When the City requires wetland restoration, the requirements of subsection (8) of this section, Compensatory Mitigation, shall apply.~~

~~14.—Wetland Access—The City may develop access through a wetland and its buffer in conjunction with a public park, provided the purpose supports education or passive recreation, and is designed to minimize environmental impacts during construction and operation.~~

(Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.510 Streams

1. ~~— Applicability — The following provisions shall apply to streams and stream buffers located within the shorelines jurisdiction, in place of provisions contained in Chapter 90 KZC. Provisions contained in Chapter 90 KZC that are not addressed in this section continue to apply, such as bond or performance security, dedication and liability, but the following subsections shall not apply within the shorelines jurisdiction:~~

- a. ~~— KZC 90.20 — General Exceptions;~~
- b. ~~— KZC 90.30 — Definitions;~~
- c. ~~— KZC 90.75 — Totem Lake and Forbes Lake;~~
- d. ~~— KZC 90.140 — Reasonable Use Exception;~~
- e. ~~— KZC 90.160 — Appeals;~~
- f. ~~— KZC 90.170 — Planning/Public Works Official Decisions — Lapse of Approval.~~

2. ~~— Activities In or Near Streams — No land surface modification shall occur and no improvements shall be located in a stream or its buffer, except as provided in subsections (3) through (11) of this section.~~

3. ~~— Stream Determinations — The Planning Official shall determine whether a stream or stream buffer is present on the subject property using the following provisions. During or immediately following a site inspection, the Planning Official shall make an initial assessment as to whether a stream exists on any portion of the subject property or surrounding area (that shall be the area within approximately 100 feet of the subject property except 200 feet in the shoreline area for the RSA and RMA zones and O. O. Denny Park):~~

~~If the initial site inspection indicates the presence of a stream, the Planning Official shall determine, based on the definitions contained in this chapter and after a review of all information available to the City, the classification of the stream.~~

~~If this initial site inspection does not indicate the presence of a stream on or near the subject property, no additional stream study will be required.~~

~~If an applicant disagrees with the Planning Official's determination that a stream exists on or near the subject property or the Planning Official's classification of a stream, the applicant shall submit a report prepared by a qualified professional approved by the Planning Official that independently evaluates the presence of a stream or the classification of the stream, based on the definitions contained in this chapter.~~

~~The Planning Official shall make final determinations regarding the existence of a stream and the proper classification of that stream. The Planning Official's decision under this section shall be used for review of any development activity proposed on the subject property for which an application is received within five (5) years of the decision; provided, that the Planning Official may modify any decision whenever physical circumstances have markedly and demonstrably changed on the subject property or the surrounding area as a result of natural processes or human activity.~~

4. ~~— Stream Buffers and Setbacks~~

a. ~~— Stream Buffers — No land surface modification shall occur and no improvement shall be located in a stream or its buffer, except as provided in this section. See also KZC 83.490(3), Trees in Critical Areas or Critical Area Buffers; and KZC 83.490(4), Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers.~~

~~Required or standard buffers for streams are as follows:~~

The following table applies to all shoreline areas other than the RSA and RMA zones and O. O. Denny Park:

Stream Buffers

Stream Class	Primary Basins	Secondary Basins
A	75 feet	N/A
B	60 feet	50 feet
C	35 feet	25 feet

The following table applies to the shoreline areas in the RSA and RMA zones and O. O. Denny Park:

Stream Buffers

Stream Types	Stream Buffer Width
Type F: All segments of aquatic areas that are not shorelines of the state (Lake Washington) and that contain fish or fish habitat.	115 feet
Type N: All segments of aquatic areas that are not shorelines (Lake Washington) or Type F streams and that are physically connected to a shoreline of the state (Lake Washington) or a Type F stream by an above-ground channel system, stream or wetland.	65 feet
Type O: All segments of aquatic areas that are not shorelines of the state (Lake Washington), Type F streams or Type N streams and that are not physically connected to a shoreline of the state (Lake Washington), a Type F stream or a Type N stream by an above-ground channel system, pipe, culvert, stream or wetland.	25 feet

(Note: Stream types F, N and O reflect the Department of Natural Resources' classification system.)

Stream buffers shall be measured from each side of the OHWM of the stream, except that where streams enter or exit pipes, the buffer shall be measured in all directions from the pipe opening. Essential improvements to accommodate required vehicular, pedestrian, or utility access to the subject property may be located within those portions of stream buffers that are measured toward culverts from culvert openings.

Where a legally established, improved road right of way or structure divides a stream buffer, the Planning Official may approve a modification of the required buffer in that portion of the buffer isolated from the stream by the road or structure, provided the isolated portion of the buffer:

- 1) Does not provide additional protection of the stream from the proposed development; and
- 2) Provides insignificant biological, geological or hydrological buffer functions relating to the portion of the buffer adjacent to the stream.

b. Buffer Setback—Structures shall be set back at least 10 feet from the designated or modified stream buffer. The City may allow within this setback minor improvements that would have no potential adverse effect during their construction, installation, use, or maintenance to fish, wildlife, or their habitat or to any vegetation in the buffer or adjacent stream.

~~e.— Storm Water Discharge— Necessary discharge of storm water through stream buffers and buffer setbacks may be allowed on the surface, but a piped system discharge is prohibited unless approved pursuant to this section. Storm water outfalls (piped systems) may be located within the buffer setback specified in subsection (4)(b) of this section and within the buffers specified in subsection (4)(a) of this section only when the City determines, based on a report prepared by a qualified professional under contract to the City and paid for by the applicant, that surface discharge of storm water through the buffer would clearly pose a threat to slope stability; and if the storm water outfall will not:~~

- ~~1) — Adversely affect water quality;~~
- ~~2) — Adversely affect fish, wildlife, or their habitat;~~
- ~~3) — Adversely affect drainage or storm water detention capabilities;~~
- ~~4) — Lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and~~
- ~~5) — Be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas.~~

~~Storm water facilities shall minimize potential impacts to the stream or stream buffer by meeting the following design standards:~~

- ~~1) — Catch basins must be installed as far as feasible from the buffer boundary.~~
- ~~2) — Outfalls must be designed to reduce the chance of adverse impacts as a result of concentrated discharges from pipe systems. This may include:~~
 - ~~a) — Installation of the discharge end as far as feasible from the sensitive area; and~~
 - ~~b) — Use of appropriate energy dissipation at the discharge end.~~

~~d.— Water Quality Facilities— The City may only approve a proposal to install a water quality facility within the outer one half (1/2) of a stream buffer if a suitable location outside of the buffer is not available and only if:~~

- ~~1) — It will not adversely affect water quality;~~
- ~~2) — It will not adversely affect fish, wildlife, or their habitat;~~
- ~~3) — It will not adversely affect drainage or storm water detention capabilities;~~
- ~~4) — It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;~~
- ~~5) — It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas;~~
- ~~6) — The existing buffer is already degraded as determined by a qualified professional;~~
- ~~7) — The installation of the water quality facility would be followed immediately by enhancement of an area equal in size and immediately adjacent to the affected portion of the buffer; and~~
- ~~8) — Once installed, it would not require any further disturbance or intrusion into the buffer.~~

~~The City may only approve a proposal by a public agency to install a water quality facility elsewhere in a stream buffer if criteria in subsections (4)(d)(9) through (11) of this section are met in addition to subsections (4)(d)(1) through (8) of this section:~~

- ~~9) — The project includes enhancement of the entire on-site buffer;~~

~~10) The project would provide an exceptional ecological benefit off site; and~~

~~11) There is no feasible alternative proposal that results in less impact to the buffer.~~

~~e. Utilities and Rights-of-Way—Provided that activities will not increase the impervious surface area or reduce flood storage capacity, the following work shall be allowed in critical areas and their buffers subject to City review after appropriate mitigation sequencing per KZC 83.490(2) has been considered and implemented:~~

~~1) All utility work in improved City rights of way;~~

~~2) All normal and routine maintenance, operation and reconstruction of existing roads, streets, and associated rights of way and structures; and~~

~~3) Construction of sewer or water lines that connect to existing lines in a sensitive area or buffer where no feasible alternative location exists based on an analysis of technology and system efficiency.~~

~~All affected critical areas and buffers shall be expeditiously restored to their pre-project condition or better. For purposes of this subsection only, “improved City rights of way” include those rights of way that have improvements only underground, as well as those with surface improvements.~~

~~f. Minor Improvements—Minor improvements may be located within the sensitive area buffers specified in subsection (4) of this section. These minor improvements shall be located within the outer one half (1/2) of the sensitive area buffer, except where approved stream crossings are made. The City may only approve a proposal to construct a minor improvement within a sensitive area buffer if:~~

~~1) It will not adversely affect water quality;~~

~~2) It will not adversely affect fish, wildlife, or their habitat;~~

~~3) It will not adversely affect drainage or storm water detention capabilities;~~

~~4) It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;~~

~~5) It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas; and~~

~~6) It supports public or private shoreline access.~~

~~The City may require the applicant to submit a report prepared by a qualified professional that describes how the proposal will or will not comply with the criteria for approving a minor improvement.~~

~~5. Stream Buffer Fence or Barrier—Prior to beginning development activities, the applicant shall install a 6-foot-high construction phase chain link fence or equivalent fence, as approved by the Planning Official and consistent with City standards, along the upland boundary of the entire stream buffer with silt screen fabric. The construction phase fence shall remain upright in the approved location for the duration of development activities.~~

~~Upon project completion, the applicant shall install between the upland boundary of all stream buffers and the developed portion of the site, either (a) a permanent 3 to 4 foot tall split rail fence; or (b) equivalent barrier, as approved by the Planning Official. Installation of the permanent fence or equivalent barrier must be done by hand where necessary to prevent machinery from entering the stream or its buffer.~~

~~6. Permit Process—The City shall consolidate and integrate the review and processing of the critical areas aspects of the proposal with the shoreline permit required for the proposed development activity, except as follows:~~

Development Proposal	Permit Process
Stream relocations or modifications, or stream buffer modifications affecting more than one-third (1/3) of the standard buffer, or more than one-fourth (1/4) of the standard buffer in the shoreline areas of the RSA and RMA zones and O. O. Denny Park	Shoreline variance pursuant to Process II-A, described in Chapter 141 KZC
Stream buffer modifications affecting one-third (1/3) or less than the standard buffer, or one-fourth (1/4) or less than the standard buffer in the shoreline areas of the RSA and RMA zones and O. O. Denny Park	Underlying development permit or development activity
Bulkheads or other hard stabilization measures in stream, stream crossings or stream rehabilitation	Underlying development permit or development activity

7. ~~Stream Buffer Modification~~

a. ~~Departures from the standard buffer requirements shall be approved only after the applicant has demonstrated consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2).~~

b. ~~Approved departures from the standard buffer requirements of subsection (4)(a) of this section allow applicants to modify the physical and biological conditions of portions of the standard buffer for the duration of the approved project. These approved departures from the standard buffer requirements do not permanently establish a new regulatory buffer edge. Future development activity on the subject property may be required to re-establish the physical and biological conditions of the standard buffer.~~

e. ~~Types of Buffer Modification—Buffers may be reduced through one (1) of two (2) means, either (1) buffer averaging; or (2) buffer reduction with enhancement. A combination of these two (2) buffer reduction approaches shall not be used.~~

1) ~~Buffer averaging requires that the area of the buffer resulting from the buffer averaging be equal in size and quality to the buffer area calculated by the standards specified in subsection (4)(a) of this section. Buffers may not be reduced at any point by more than one third (1/3) of the standards in subsection (4)(a) of this section, or not by more than one fourth (1/4) in the shoreline areas of the RSA and RMA zones and O. O. Denny Park. Buffer averaging calculations shall only consider the subject property.~~

2) ~~Buffers may be decreased through buffer enhancement. The applicant shall demonstrate that through enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) the reduced buffer will function at a higher level than the standard existing buffer. The reduced on-site buffer area must be planted and maintained as needed to yield over time a reduced buffer that is equivalent to an undisturbed Puget lowland forest in density and species composition.~~

~~A buffer enhancement plan shall at a minimum provide the following: (a) a map locating the specific area of enhancement; (b) a planting plan that uses native species, including groundcover, shrubs, and trees; and (c) a monitoring and maintenance program prepared by a qualified professional consistent with the standards specified in KZC 83.500(11).~~

~~Buffers may not be reduced at any point by more than one third (1/3) of the standards in subsection (4)(a) of this section, or not by more than one fourth (1/4) for the shoreline areas in the RSA and RMA zones and O. O. Denny Park.~~

d. ~~Decisional Criteria—An improvement or land surface modification may be approved in a stream buffer only if:~~

1) ~~The project demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.490(2);~~

- ~~2) — It is consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998) or the *Shoreline Restoration Plan* (The Watershed Company, 2010);~~
- ~~3) — It will not adversely affect water quality;~~
- ~~4) — It will not adversely affect fish, wildlife, or their habitat;~~
- ~~5) — It will not have an adverse effect on drainage and/or storm water detention capabilities;~~
- ~~6) — It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;~~
- ~~7) — It will not be materially detrimental to any other property or the City as a whole;~~
- ~~8) — Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;~~
- ~~9) — All exposed areas are stabilized with vegetation normally associated with native stream buffers, as appropriate; and~~
- ~~10) — There is no practicable or feasible alternative development proposal that results in less impact to the buffer.~~

~~As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's consultant. The report shall assess the habitat, water quality, storm water detention, ground water recharge, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the 10 criteria listed in subsections (7)(d)(1) through (10) of this section.~~

~~8. — Shoreline Variance for Stream Relocation or Modification or Stream Buffer Modification — An applicant who is unable to comply with the specific standards of this section must obtain a shoreline variance pursuant to KZC-141.70(3) and meet the criteria set forth in WAC 183-27-170. In addition, the following City submittal requirements and criteria must also be met:~~

~~a. — Submittal Requirements — As part of the shoreline variance request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's qualified professional. The report shall include the following:~~

- ~~1) — A determination of the stream and the stream buffer based on the definitions contained in KZC-83.80;~~
- ~~2) — An analysis of whether any other proposed development with less impact on the sensitive area and sensitive area buffer is feasible;~~
- ~~3) — Sensitive site design and construction staging of the proposal so that the development will have the least feasible impact on the sensitive area and sensitive area buffer;~~
- ~~4) — A description of the area of the site that is within the sensitive area or within the setbacks or buffers required by this chapter;~~
- ~~5) — A description of protective measures that will be undertaken, such as siltation curtains, hay bales and other siltation prevention measures, and scheduling the construction activity to avoid interference with wildlife and fisheries rearing, nesting or spawning activities;~~
- ~~6) — An analysis of the impact that the proposed development would have on the sensitive area and the sensitive area buffer;~~

~~7) — How the proposal minimizes net loss of sensitive area and/or sensitive area buffer functions to the greatest extent feasible;~~

~~8) — Whether the improvement is located away from the sensitive area and the sensitive area buffer to the greatest extent feasible;~~

~~9) — Information specified in KZC 83.500(8) for compensatory mitigation; and~~

~~10) — Such other information or studies as the Planning Official may reasonably require.~~

~~b. — Decisional Criteria — The City may grant approval of a shoreline variance only if all of the following criteria are met:~~

~~1) — No other permitted type of land use for the property with less impact on the sensitive area and associated buffer is feasible;~~

~~2) — The proposal has the minimum area of disturbance;~~

~~3) — The proposal maximizes the amount of existing tree canopy that is retained;~~

~~4) — The proposal utilizes to the maximum extent feasible innovative construction, design, and development techniques, including pervious surfaces that minimize to the greatest extent feasible net loss of sensitive area functions and values;~~

~~5) — The proposed development does not pose an unacceptable threat to the public health, safety, or welfare on or off the property;~~

~~6) — The proposal meets the mitigation, maintenance, and monitoring requirements of this chapter; and~~

~~7) — The granting of the shoreline variance will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures under similar circumstances.~~

~~9. — Stream Relocation or Modification — The City may only permit a stream to be relocated or modified if water quality, conveyance, fish and wildlife habitat, wetland recharge (if hydrologically connected to a wetland), and storm water detention capabilities of the stream will be significantly improved by the relocation or modification. Convenience to the applicant in order to facilitate general site design shall not be considered.~~

~~A proposal to relocate or modify a stream may only be approved if the Washington Department of Fish and Wildlife issues a hydraulic project approval for the project. Furthermore, all modifications shall be consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998), and the *Shoreline Restoration Plan* (The Watershed Company, 2010).~~

~~If the proposed stream activity will result in the creation or expansion of a stream or its buffer on any property other than the subject property, the City shall not approve the plan until the applicant submits to the City a copy of a statement signed by the owners of all affected properties, in a form approved by the City Attorney and recorded in the King County Recorder's Office, consenting to the sensitive area and/or buffer creation or increase on such property.~~

~~Prior to the City's decision to authorize approval of a stream relocation or modification, the applicant shall submit a stream relocation/modification plan prepared by a qualified professional approved by the City. The cost of producing, implementing, and monitoring the stream relocation/modification plan, and the cost of review of that plan by the City's stream consultant shall be borne by the applicant. This plan shall contain or demonstrate the following:~~

~~a. — A topographic survey showing existing and proposed topography and improvements;~~

~~b. — The filling and revegetation of the existing stream channel;~~

- ~~e. — A proposed phasing plan specifying time of year for all project phases;~~
- ~~d. — The ability of the new stream channel to accommodate flow and velocity of 100-year storm events; and~~
- ~~e. — The design and implementation features and techniques listed below, unless clearly and demonstrably inappropriate for the proposed relocation or modification:~~
 - ~~1) — The creation of natural meander patterns;~~
 - ~~2) — The formation of gentle and stable side slopes, no steeper than two (2) feet horizontal to one (1) foot vertical, and the installation of both temporary and permanent erosion control features (the use of native vegetation on streambanks shall be emphasized);~~
 - ~~3) — The creation of a narrow sub-channel (thalweg) against the south or west streambank to maximize stream shading;~~
 - ~~4) — The utilization of native materials;~~
 - ~~5) — The installation of vegetation normally associated with streams, emphasizing native plants with high food and cover value for fish and wildlife;~~
 - ~~6) — The creation of spawning areas, as appropriate;~~
 - ~~7) — The re-establishment of fish population, as appropriate;~~
 - ~~8) — The restoration of water flow characteristics compatible with fish habitat areas;~~
 - ~~9) — Demonstration that the flow and velocity of the stream after relocation or modification shall not be increased or decreased at the points where the stream enters and leaves the subject property, unless the change has been approved by the City to improve fish and wildlife habitat or to improve storm water management;~~
 - ~~10) — A written description of how the proposed relocation or modification of the stream will significantly improve water quality, conveyance, fish and wildlife habitat, wetland recharge (if hydrologically connected to a wetland), and storm water detention capabilities of the stream; and~~
 - ~~11) — A monitoring and maintenance plan consistent with KZC 83.500(11) for wetlands.~~

~~Prior to diverting water into a new stream channel, a qualified professional approved by the City shall inspect the completed new channel and issue a written report to the City stating that the new stream channel complies with the requirements of this section. The cost for this inspection and report shall be borne by the applicant.~~

~~10. — Streambank Protection~~

~~a. — General~~

- ~~1) — Streambank protection measures shall be selected to address site and reach based conditions and to avoid habitat impacts.~~
- ~~2) — The selection of the streambank protection technique shall be based upon an evaluation of site conditions, reach conditions and habitat impacts.~~
- ~~3) — Nonstructural or soft structural streambank protection measures shall be implemented unless demonstrated to not be feasible.~~

~~b. — Submittal Requirements for Streambank Protection Measures — An assessment prepared by a qualified professional containing the following shall be submitted to the City:~~

~~1) — An evaluation of the specific mechanism(s) of streambank failure as well as the site and reach-based causes of erosion.~~

~~2) — An evaluation of the considerations used in identifying the preferred streambank solution technique. The evaluation shall address the provisions established in the Washington Department of Fish and Wildlife's *Integrated Streambank Protection Guidelines* (2003, or as revised).~~

~~e. — Bulkheads or other erosion control practices using hardened structures that armor and stabilize the streambank from further erosion are not permitted along a stream, except as provided in this subsection. The City shall allow a bulkhead to be constructed only if:~~

~~1) — It is not located within a wetland or between a wetland and a stream;~~

~~2) — It is needed to prevent significant erosion;~~

~~3) — The use of vegetation and/or other biological materials would not sufficiently stabilize the streambank to prevent significant erosion;~~

~~4) — The applicant submits a plan prepared by a qualified professional approved by the City that shows a bulkhead and implementation techniques that meet the following criteria:~~

~~a) — There will be no adverse impact to water quality;~~

~~b) — There will be no adverse impact to fish, wildlife, and their habitat;~~

~~e) — There will be no increase in the velocity of stream flow, unless approved by the City to improve fish habitat;~~

~~d) — There will be no decrease in flood storage volumes;~~

~~e) — The installation, existence, or operation of the bulkhead will lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and~~

~~f) — The installation, existence or operation of the bulkhead or other hard stabilization measures will be detrimental to any other property or the City as a whole.~~

~~5) — The Washington Department of Fish and Wildlife issues a hydraulic project approval for the project.~~

~~d. — The streambank protection shall be designed consistent with Washington Department of Fish and Wildlife's *Integrated Streambank Protection Guidelines* (2003, or as revised). The stabilization measure shall be designed and constructed to minimize the transmittal of water current and energy to other properties. Changes in the horizontal or vertical configuration of the land shall be kept to a minimum. Fill material used in construction of a bulkhead shall be nondissolving and nondecomposing. The applicant shall also stabilize all exposed soils by planting native riparian vegetation with high food and cover value for fish and wildlife.~~

~~11. — Stream Crossings — Stream crossings are not permitted, except as specified in this subsection. The City shall review and decide upon an application to cross a stream with an access drive, driveway, or street. A stream crossing shall be allowed only if:~~

~~a. — The stream crossing is necessary to provide required vehicular, pedestrian, or utility access to the subject property. Convenience to the applicant in order to facilitate general site design shall not be considered;~~

~~b. — The Washington Department of Fish and Wildlife issues a hydraulic project approval for the project; and~~

~~e. — The applicant submits a plan prepared by a qualified professional approved by the City that shows the crossing and implementation techniques that meet the following criteria:~~

~~1) — There will be no adverse impact to water quality;~~

- ~~2) There will be no adverse impact to fish, wildlife, and their habitat;~~
- ~~3) There will be no increase in the velocity of stream flow, unless approved by the City to improve fish habitat;~~
- ~~4) There will be no decrease in flood storage volumes;~~
- ~~5) The installation, existence, or operation of the stream crossing will lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and~~
- ~~6) The installation, existence or operation of the stream crossing will be detrimental to any other property or to the City as a whole.~~

~~d. The stream crossing shall be designed and constructed to allow passage of fish inhabiting the stream or that may inhabit the stream in the future. The stream crossing shall be designed to accommodate a 100-year storm event. The applicant shall at all times maintain the crossing so that debris and sediment do not interfere with free passage of water, wood and fish. The City shall require a security or perpetual maintenance agreement under Chapter 90 KZC for continued maintenance of the stream crossing.~~

~~e. A bridge is the preferred stream crossing method. If a bridge is not economically or technologically feasible, or would result in greater environmental impacts than a culvert, a proposal for a culvert may be approved if the culvert complies with the criteria in this subsection and is designed consistent with Washington Department of Fish and Wildlife's *Design of Road Culverts for Fish Passage* (2003, or as revised).~~

~~f. If a proposed project requires approval through a shoreline conditional use, the City may require that any stream in a culvert on the subject property be opened, relocated, and restored consistent with the provisions of this subsection.~~

~~12. Stream Rehabilitation — City approval is required prior to stream rehabilitation. The City may permit or require the applicant or property owner to restore and maintain a stream and/or its buffer by removing material detrimental to the stream and its surrounding area such as debris, sediment, or vegetation. The City may also permit or require the applicant to restore a stream or its buffer through the addition of native plants and other habitat features. See also KZC 83.490(3), Trees in Critical Areas or Critical Area Buffers; and KZC 83.490(4), Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Restoration may be required at any time that a condition detrimental to water quality or habitat exists. When the City requires stream rehabilitation, the mitigation plan and monitoring requirements of KZC 83.500(11) shall apply.~~

~~(Ord. 4491 § 11, 2015; Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)~~

83.520 Critical Areas: Geologically Hazardous Areas

1. General – Uses, developments, activities and shoreline modifications within geologically hazardous areas must be limited to prevent significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions and ecosystem-wide processes.

2. Standards

- a. New use, development or activities or creation of new lots that would cause foreseeable risk to people or improvement from geological conditions during the life of the use, development or activities shall not be allowed.
- b. New use, development or activities that would require structural shoreline stabilization over the life of the development shall not be allowed, except for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available.
- c. For protection of existing primary structures, stabilization structures or measures may be allowed when no alternatives, including relocation or reconstruction of existing structures, are found to be feasible.

- d. Stabilization structures or measures must be consistent with KZC 83.300 for shoreline stabilization and with KZC 83.360 for no net loss of ecological function.
- e. Uses, developments, activities and shoreline modifications within geologically hazardous areas must be consistent with Chapter 85 KZC.
- f. In addition to the required information contained in Chapter 85 KZC, any required geotechnical report shall also contain any additional information specified under the definition of geotechnical report contained in KZC 83.80.

(Ord. 4251 § 3, 2010)

83.530 Flood Hazard Reduction

1. General – Uses, developments, activities and shoreline modifications within the channel migration zone must be limited to prevent interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with critical areas.

2. Standards

- a. New uses, development or activities or expansions shall not be allowed when it would be reasonably foreseeable that the use, development or activities would require structural flood hazard reduction measures within the channel migration zone or floodway.
- b. The uses and activities specifically identified in WAC 173-26-221(3)(c)(I) may be allowed within the channel migration zone if the City determines that they are appropriate and/or necessary.
- c. Flood hazard measures shall not result in a net loss of ecological functions associated with critical areas. See KZC 83.360.
- d. Flood hazard reduction measures shall only be allowed if it is determined that no other alternative is feasible to reduce flood hazard to existing development. Where feasible, nonstructural flood hazard reduction measures shall be utilized over structural measures.
- e. When evaluating alternative flood control measures, structures in flood-prone areas shall be removed or relocated where feasible.
- f. New structural flood hazard reduction measures may be allowed only when it can be demonstrated by scientific and engineering analysis that:
 - 1) They are necessary to protect existing development;
 - 2) Nonstructural measures are not feasible;
 - 3) Impacts to ecological functions and priority species and habitats can be successfully mitigated to assure no net loss; and
 - 4) Vegetation retention is provided consistent with KZC 83.400, 83.500 and 83.510 as applicable.
- g. New structural flood hazard reduction measures shall be placed landward of wetlands and associated buffer areas, except for actions that increase ecological functions, such as wetland restoration.
- h. For new structural flood hazard reduction measures, such as dikes and levees, improved public access walkways shall be provided, unless public access improvements would cause unavoidable health and safety hazards to the public, inherent or unavoidable security problems, or ecological impacts that are significant and cannot be mitigated.

- i. Removal of gravel for flood management is not permitted, unless 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.
- j. Where feasible, stream corridors shall be returned to more natural hydrological conditions, recognizing that seasonal flooding is an essential natural process. This includes removal of artificial restrictions to natural channel migration, restoration of off-channel hydrological connections and returning stream processes to a more natural state where appropriate and feasible.
- k. Associated wetland restorations must be consistent with KZC 83.490 and 83.500. Stream restoration or relocations must be consistent with KZC 83.490 and 83.510.
- l. The requirements of Chapter 21.56 KMC, Flood Damage Prevention, Chapter 15.52 KMC, Storm Water Drainage, and the National Flood Insurance Program must be met.

(Ord. 4251 § 3, 2010)

83.540 Archaeological and Historic Resources

1. General – Uses, developments and activities on sites of historic or archeological significance or sites containing items of historic or archeological significance must not unreasonably disrupt or destroy the historic or archeological resource.
2. Standards
 - a. Permits submitted for land surface modification or development activity in areas documented by the Washington State Office of Archaeology and Historic Preservation to contain archaeological resources shall include a site inspection and a draft written report prepared by a qualified professional archaeologist, approved by the City, prior to the issuance of a permit. In addition, the archaeologist will provide copies of the draft report to the affected tribe(s) and the State Office of Archaeology and Historic Preservation.

After consultation with these agencies, the archaeologist shall provide a final report that includes any recommendations from the affected tribe(s) and the State Office of Archaeology and Historic Preservation on avoidance or mitigation of the proposed project's impacts. The Planning Official shall condition project approval, based on the final report from the archaeologist, to ensure that impacts to the site are avoided or minimized consistent with federal and state law.
 - b. Shoreline permits shall contain provisions that require developers to immediately stop work and notify the City if any potential archaeological resources are uncovered during land surface modification or development activity. In such cases, the developer shall be required to provide for a site inspection and evaluation by a qualified professional archaeologist, approved by the City, to ensure that all feasible valuable archaeological data is properly handled. The City shall subsequently notify the affected tribe and the State Office of Archaeology and Historic Preservation. Failure to comply with this requirement shall be considered a violation of the shoreline permit.
 - c. If identified historical or archaeological resources are present, site planning and access to such areas shall be designed and managed to give maximum protection to the resource and surrounding environment.
 - d. Interpretative signs, historical markers and other similar exhibits providing information about historical and archaeological features and natural areas shall be provided when appropriate.
 - e. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 that necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.
 - f. Archaeological sites are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archaeological Sites and Records) and shall comply with Chapter 25-48 WAC or its successor as well as the provisions of this chapter.

g. Proposed changes to historical properties that are registered on the State or National Historic Register are subject to review under the National and State Registers' review process.

(Ord. 4251 § 3, 2010)

83.550 Nonconformances

1. General – This section establishes when and under what circumstances nonconforming aspects of a use or development must be brought into conformance with this chapter. The applicant needs to consult the provisions of this section if there is some aspect of the use or development on the subject property that is not permitted under this chapter.
2. When Conformance Is Required – If an aspect, element or activity of or on the subject property conformed to the applicable shoreline regulations in effect at the time the aspect, element or activity was constructed or initiated, that aspect, element or activity may continue and need not be brought into conformance with this chapter unless a provision of this section requires conformance.
3. Abatement of Nonconformance That Was Illegal When Initiated – Any nonconformance that was illegal when initiated must immediately be brought into conformance with this chapter. The City may, using the provisions of Chapter 173-27 WAC, abate any nonconformance that was illegal when initiated.
4. Special Provision for Damaged Improvements – Nonconforming structures that are damaged or destroyed by fire, explosion, flood, earthquake, storm or other casualty may be restored or replaced in kind, provided that, the following are met:
 - a. The permit process is commenced within 24 months of the date of such damage; and
 - b. The reconstruction does not expand, enlarge, or otherwise increase the nonconformity, except as provided for in this section; and
 - c. The reconstruction locates the structure in the same place where it was, or alternatively if moved, then the least environmentally damaging location relative to the shoreline and any critical areas; and
 - d. For existing residential structures built over the water, appropriate measures are taken to mitigate adverse impacts to the maximum extent feasible while still retaining the existing residential density, including but not limited to:
 - 1) Reducing the overwater footprint;
 - 2) Reducing the number or size of pilings to the extent allowed by site-specific engineering or design considerations;
 - 3) Softening existing hard shoreline stabilization measures to the extent allowed by site-specific characteristics;
 - 4) Raising the height of the structure off the water, provided that the height of the existing building is not increased; and
 - 5) Incorporating grating into the rebuilt structure where feasible.
 - e. For piers and docks, appropriate measures are taken to mitigate adverse impacts to the maximum extent feasible while still retaining the existing area and dimensions, if desired, including, but not limited to:
 - 1) Meeting the standards for height of piers and diving boards, minimum water depth, location of ells, fingers and deck platforms and pilings and moorage piles in KZC 83.270 through 83.290; and
 - 2) Installing decking materials that allow a minimum of 40 percent light transmittance through the material.

f. For hard shoreline stabilization measures, the applicant shall consult the provisions for emergency actions contained in KZC 83.560. If the work needed does not qualify as an emergency action under these provisions, then the applicant shall comply with the provisions for shoreline stabilization contained within KZC 83.300.

5. Certain Nonconformances Specifically Regulated

a. General

1) The provisions of this section specify when and under what circumstances certain nonconformances must be corrected. If a nonconformance must be corrected under this section, the applicant must submit all information necessary for the City to review the correction as part of the application for any development permit. In addition, the City will not permit occupancy until the correction is made.

2) If subsection (4) of this section applies to a specific nonconformance, then the provisions of this subsection do not apply to that same nonconformance.

b. Nonconforming Structure

1) A nonconforming structure that is moved ~~any distance~~ must be brought into conformance.

2) A nonconforming structure may be maintained, repaired, altered, remodeled and continued; provided, that a nonconforming structure shall not be enlarged, intensified, increased or altered in any way that increases the degree of the nonconformity, except as specifically permitted under this section.

3) Any structural alteration of a roof or exterior wall that does not comply with height, shoreline setback, or view corridor standards shall be required to be brought into conformance for the nonconforming height, setback or view corridor, except as provided otherwise in this chapter. Excepted from this subsection are the repair or maintenance of structural members, the alteration to existing windows and/or doors and the addition of new windows and/or doors, including sun roofs, for structures ~~landward of the OHWM~~, if the following criteria are met:

- a) Floor area is not increased;
 - b) The location of an exterior wall is not modified in a manner that increases the degree of nonconformance; and
 - c) The cost of work on a nonconforming structure in any one-year period does not exceed 50 percent of the replacement cost of the structure.
- 4) The exterior walls and roofs of a nonconforming overwater covered moorage may be replaced with transparent or translucent material.
- 5) If the applicant is making an alteration to the primary structure, the cost of which exceeds 50 percent of the replacement cost of the structure or constructing a new primary structure, the following existing structures must be removed or otherwise brought into conformance:

a) Nonconforming accessory structures located in the required shoreline setback, including decks, patios, or similar improvements;

b) Nonconforming accessory structures located at or waterward of the OHWM, including overwater decks, pier flares, and stairs, or similar improvements; except that existing boat launches for non-motorized boats may be continued, and moorage buoys may be continued if established prior to 1978 and applicable county, federal and state agency permits were approved.

c) Additional pier or dock located on the subject property. The more non-conforming pier or dock must be removed in the RSA or RMA zone; and

- ~~ed~~) Covered boat moorage structure located on the subject property in the RSA or RMA zone; except for boat canopies that comply with KZC 83.270(9).
- 6) If the applicant is making an addition to a pier or dock in the RSA or RMA zone, the following existing structures must be removed or otherwise brought into conformance:
- a) Additional pier or dock located on the subject property ~~more than 30 feet waterward of the OHWM. The more non-conforming pier or dock must be removed;~~ and
 - b) Covered boat moorage structure located on the subject property ~~more than 30 feet waterward of the OHWM,~~ except for boat canopies that comply with KZC 83.270 for the RSA zone or KZC 83.280 for the RMA zone.
- 7) Increases in structure footprint outside of the shoreline setback or wetland or stream buffer shall be allowed, even if all or a portion of the previously approved footprint is within the shoreline setback, wetland or stream buffer.
- 8) Nonconforming structures that are expanded or enlarged within the shoreline setback must obtain a shoreline variance; provided, that a nonconforming detached dwelling unit use or a water-dependent, water-related, water-oriented use as defined in Chapter 83 KZC may be enlarged without a shoreline variance where the following provisions apply:
- a) The nonconforming structure must have been constructed prior to December 1, 2006, the date of the City's *Final Shoreline Analysis Report*.
 - b) Before implementing this provision, the applicant shall determine whether the provisions of KZC 83.380 would allow for a reduced setback, based upon existing conditions on the subject property.
 - c) The structure must be located landward of the OHWM.
 - d) Any enlargement of the building footprint within the shoreline setback shall not exceed 10 percent of the gross floor area of the existing primary structure prior to the expansion. Other enlargements, such as upper floor additions, may be permitted if the addition is consistent with other provisions contained in this subsection.
 - e) The enlargement shall not extend further waterward than the existing primary structure. For purposes of this subsection, the improvements allowed within the shoreline setback as established in KZC 83.190, such as bay windows, chimneys, greenhouse windows, eaves, cornices, awnings and canopies, shall not be used in determining the most waterward location of the building (see Plate 44).
 - f) The applicant must restore a portion of the shoreline setback area to offset the impact, such that the shoreline setback area will function at an equivalent or higher level than the existing conditions. The restoration plan shall be prepared by a qualified professional and shall be reviewed by the Planning Official and/or a consultant who may approve, approve with conditions, or deny the request.

If the proposal is consistent with the standards provided in this subsection, the Planning Official shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the proposal is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and resubmittal. The cost of producing and implementing the restoration plan and the review by City staff and/or a consultant shall be borne by the applicant. Examples include, but are not limited to:

- 1) Installation of additional native vegetation within the shoreline setback that would otherwise not be required under this chapter. At a minimum, the area of shoreline setback restoration and/or enhancement shall be equivalent to the area impacted by the improvement.

- 2) Removal of an existing hard shoreline stabilization structure covering at least 15 linear feet of the lake frontage that is located at, below, or within five (5) feet landward of the OHWM and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore shallow-water habitat.
 - 3) Setting back hard shoreline stabilization structures or portions of hard shoreline stabilization structures from the OHWM and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography and beach/substrate composition.
 - 4) Other shoreline restoration projects either on-site or off-site within the City's shoreline jurisdiction area that are demonstrated to result in an improvement to existing shoreline ecological functions and processes.
- g) The applicant must comply with the best management practices contained in KZC 83.480 addressing the use of fertilizer, herbicides and pesticides as needed to protect lake water quality.
- h) The applicant shall use "fully shielded cut off" light fixtures as defined by the Illuminating Engineering Society of North America (IESNA), or other appropriate measure to conceal the light source from adjoining uses and the lake, and direct the light toward the ground for any exterior light sources located on any facades with exterior light sources that are directed towards the lake or visible from the lake.
- i) The remodel or expansion will not cause adverse impacts to shoreline ecological functions and/or processes as described in KZC 83.360.
- j) The provision contained in subsection (5)(b)(5) of this section shall only be used once within any 5-year period.
- 9) A nonconforming detached dwelling unit that is located on a lot that has less than 3,000 square feet of building area lying landward of the required shoreline setback and upland of required wetland or stream buffers may be rebuilt or otherwise replaced within the shoreline setback and required wetland or stream buffer without a shoreline variance, provided the following standards are met:
- a) The structure must be located landward of the OHWM.
 - b) The size of the building footprint shall not be increased, and the reconstructed structure shall not extend further waterward than the existing primary residential structure. For purposes of this subsection, the improvements allowed within the shoreline setback as established in KZC 83.190, such as bay windows, chimneys, greenhouse windows, eaves, cornices, awnings and canopies, shall not be used in determining the most waterward location of the building (see Plate 44).
 - c) The reconstruction does not expand, enlarge, or otherwise increase the nonconformity.
 - d) The reconstruction locates the structure in the least environmentally damaging location relative to the shoreline and the critical areas.
 - e) The structure must comply with any requirements of this chapter, zoning, building, or fire codes in effect when the structure is built, other than allowed in this subsection.
- 10) A primary structure that does not conform to the required shoreline setback and is located on a lot that has less than 3,000 square feet of building area lying landward of the shoreline setback, not including the area located within the required side yard setbacks and up to 10 feet of a required front yard, may be rebuilt or otherwise replaced in its current location within the shoreline setback, provided the following standards are met:
- a) The structure must be located landward of the OHWM.

- b) The size of the building footprint shall not be increased, and the reconstructed structure shall not extend further waterward than the existing primary structure. For purposes of this subsection, the improvements allowed within the shoreline setback as established in KZC 83.190, such as bay windows, chimneys, greenhouse windows, eaves, cornices, awnings and canopies, shall not be used in determining the most waterward location of the building (see Plate 44).
 - c) The reconstruction does not expand, enlarge, or otherwise increase the nonconformity.
 - d) The structure must comply with any requirements of this chapter, zoning, building, or fire codes in effect when the structure is built, other than allowed in this subsection.
- c. Nonconforming Use
- 1) A nonconforming use may be continued by successive owners or tenants.
 - 2) Any nonconforming use, except for a detached dwelling unit, must be brought into conformance or discontinued if:
 - a) The applicant is making an alteration that increases the extent of the nonconformity, such as increasing the gross floor area of any structure that houses or supports the nonconforming use; or
 - b) The nonconforming use has ceased for 90 or more consecutive days. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire. Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use includes phased or rotational operations as part of typical operations; or
 - c) The nonconforming use is replaced by another use. The City may allow a change from one (1) nonconforming use to another such use if, through a shoreline conditional use process, the City determines that the proposed new use will comply with the following standards:
 - 1) The proposed use will be consistent with the policies and provisions of the Act and this chapter and is compatible with the uses in the area as the preexisting use;
 - 2) The use or activity is not enlarged, intensified, increased or altered in a manner that increases the extent of the nonconformity;
 - 3) The structure(s) associated with the nonconforming use shall not be expanded in a manner that increases the extent of the nonconformity, including encroachment into areas, such as setbacks, and any wetlands, streams and/or associated buffers established by this chapter, where new structures, development or use would not be allowed;
 - 4) The change in use will not create adverse impacts to shoreline ecological functions and/or processes as described in KZC 83.360; and
 - 5) Uses that are specifically prohibited or that would thwart the intent of the Act or this chapter shall not be authorized.
- d. Nonconforming Wetland or Stream Buffer
- 1) If existing structures or other improvements are located within the wetland, stream or associated buffers, these structures and improvements must be brought into conformance if the applicant is making an alteration, change or any other work on the subject property in a consecutive 12-month period and the cost of the alteration, change or work exceeds 50 percent of the replacement cost of all existing structures and improvements on the subject property.
 - 2) If the cost threshold of subsection (5)(d)(1) of this section is not exceeded, the alterations or changes may occur provided that the alterations or changes comply with this code and no exterior alterations or

changes are made to the nonconforming portion of the structure or improvement, unless otherwise authorized by this chapter.

- e. Nonconforming Lot Size – An undeveloped lot, tract, parcel, site or division which was created or segregated pursuant to all applicable laws, ordinances and regulations in effect at the time, but that is nonconforming as to the present lot size or density standards, may be developed so long as such development conforms to other requirements of this chapter and the Act.
- f. Nonconforming Public Pedestrian Walkway
 - 1) If a previously installed public shoreline access walkway is subsequently found not installed to the property line, the walkway shall be extended to the property line consistent with conditions established in the original permit. The City can require the walkway to be extended with or without a building permit proposal.
 - 2) If a previously installed shoreline access walkway was subsequently found to have vegetation, fencing, other improvements or accessory structures installed that block connection to an adjacent shoreline access walkway, the blockage shall be removed. The City can require the block connection removed with or without a building permit proposal.
 - 3) Nonconforming shoreline pedestrian access walkways that were legally created shall not be required to comply with the dimensional standards or setback standards of this chapter.
 - 4) The shoreline public access walkway requirements established in this chapter must be brought into conformance as much as is feasible, based on available land area, if the applicant completes an alteration to all primary habitable structure(s) in shorelines jurisdiction, the cost of which exceeds 50 percent of the replacement cost of all structures and improvements on the subject property.
- g. Nonconforming Shoreline Setback Vegetation – The vegetation requirements of this chapter must conform as much as is feasible, based on available land area, in either of the following situations:
 - 1) An increase of at least 10 percent in gross floor area of any structure located in shorelines jurisdiction, excluding detached dwelling unit and public park uses; or
 - 2) An alteration to any structure(s) in shorelines jurisdiction, the cost of which exceeds 50 percent of the replacement cost of all structures on the subject property.
- h. Nonconforming Lighting – Exterior lighting must be brought into compliance with the requirements of this chapter under the following circumstances:
 - 1) The shielding requirements of KZC 83.470 shall be met when any nonconforming light fixture is replaced or moved.
 - 2) All other requirements of KZC 83.470 shall be met when there is an increase in gross floor area of more than 50 percent of the primary structures on the subject property.
- i. Prior Approval of Shoreline Variance – A structure for which a shoreline variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
- j. Prior Approval of Shoreline Conditional Use – A use that is listed in this chapter as a conditional use, but existed prior to adoption of this chapter or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use.
- k. Any Other Nonconformance – If any nonconformance exists on the subject property, other than as specifically listed in the prior subsections of this section, these must be brought into conformance if:

- 1) The applicant is making any alteration or change or doing any other work in a consecutive 12-month period to an improvement that is nonconforming or houses, supports or is supported by the nonconformance, and the cost of the alteration, change or other work exceeds 50 percent of the replacement cost of that improvement; or
- 2) The use on the subject property is changed and this chapter establishes more stringent or different standards or requirements for the nonconforming aspect of the new use than this code establishes for the former use.

Replacement costs shall not include costs relating to nonstructural interior elements, such as but not limited to appliances, heating and cooling systems, electrical systems, and interior finishes.

(Ord. 4302 § 3, 2011; Ord. 4251 § 3, 2010)

83.560 Emergency Actions

1. When Allowed – Emergency actions are those that pose an unanticipated and imminent threat to public health, safety, or the environment and that require immediate action or within a time too short to allow full compliance with the provisions of this chapter.

2. Standards

a. Emergency actions shall meet the following standards:

- 1) Use reasonable methods to address the emergency;
- 2) Be designed to have the least possible impacts on shoreline ecological functions and processes; and
- 3) Be designed to comply with the provisions of this chapter, to the extent feasible.

b. Notice

1) The party undertaking the emergency action shall notify the Planning and Building Department of the existence of the emergency and emergency action(s) within two (2) working days following commencement of the emergency action.

2) Within seven (7) days following completion of emergency activity, the party shall provide the Planning and Building Department a written description of the work undertaken, site plan, description of pre-emergency conditions and other information requested by the City to determine whether the action was permitted within the scope of an emergency action.

c. Decision

1) The Planning Official shall evaluate the action for consistency with the provisions contained in WAC 173-27-040(2)(d).

2) The Planning Official shall determine whether the action taken, or any part of the action taken, was within the scope of the emergency actions allowed in this section. The Planning Official may require mitigation for impacts to shoreline ecological functions.

3) If the Planning Official determines that the emergency action was not warranted, he or she may require that the party obtain a permit and/or require remediation of or mitigation for the actions taken.

Chapter 5 – DEFINITIONS

Sections:

[5.05](#) User Guide

[5.10](#) Definitions

5.05 User Guide

The definitions in this chapter apply for this code. Also see definitions contained in Chapter [83](#) KZC for shoreline management, ~~Chapter 90 KZC for critical areas: wetlands, streams, minor lakes, fish and wildlife habitat conservation areas and frequently flooded areas~~, Chapter [95](#) KZC for tree management and required landscaping, and Chapter [113](#) KZC for cottage, carriage and two/three-unit homes that are applicable to those chapters.

5.10 Definitions

.185 Culvert

An open-ended cylindrical structure generally used for the conveyance of storm waters or streams that allows water to flow under a road, railroad, trail, or similar obstruction from one side to the other side.

.326 Frequently Flooded Areas

~~For properties within the jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise, all~~ All areas shown on the Kirkland [critical areas](#) maps and as noted on effective FEMA maps as being within a 100-year floodplain, as well as all areas of special flood hazard regulated by Chapter [21.56](#) KMC. (Ord. 4551 § 4, 2017; Ord. 4252 § 1, 2010)

.328 Geologically Hazardous Areas

[Landslide hazard areas](#), [erosion hazard areas](#) and [seismic hazard areas](#). ~~For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.~~ (Ord. 4643 § 4, 2018; Ord. 4252 § 1, 2010)

.389 Impervious Surface

~~For properties within the jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise; impervious surface is a placed, created, constructed or compacted hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under pre-development conditions. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving,~~

~~gravel roads, packed earthen materials, and oiled, macadam materials or other surfaces which similarly impede the natural infiltration of surface water or storm water. Impervious surfaces do not include pervious surfaces as defined in this code. (Ord. 4551 § 4, 2017)~~

~~**Impervious surface** means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions before development; or that causes water to run off the surface in greater quantities or at an increased rate of flow compared to the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof, walkways, patios, driveways, parking lots, or storage areas, areas that are paved, graveled or made of packed or oiled earthen materials or other surfaces that similarly impede the natural infiltration of surface water or stormwater. Open, uncovered flow control or water quality treatment facilities shall not be considered impervious surfaces. Impervious surfaces do not include pervious surfaces as defined in this chapter.~~

.410 Institutional Uses

The following uses: [schools](#), [churches](#), colleges, universities, [hospitals](#), parks, governmental facilities and [public utilities](#). ~~Also see Chapter 83 KZC for properties within jurisdiction of the Shoreline Management Act.~~
(Ord. 4252 § 1, 2010; Ord. 4030 § 1, 2006)

.490.5 Low Impact Development (LID)

A storm water management and land development strategy applied at the parcel and the subdivision scale that ~~strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizes emphasizing~~ conservation, and the use of on-site [natural features](#), [site planning](#), and distributed stormwater management practices that are integrated into a project design ~~integrated with engineered, small scale hydrologic controls to more closely mimic predevelopment hydrologic functions.~~ (Ord. 4437 § 1, 2014; Ord. 4350 § 1, 2012)

.513 Maximum Units per Acre

Within RSA and PLA 3C zones, the maximum allowed number of dwelling units shall be computed by multiplying the gross area of the subject property by the applicable residential density number per acre shown on the Zoning Map. In the RSA zone, for the purpose of calculating the maximum units per acre, all road dedications and vehicular access easements and tracts shall be included in the calculation for density. The maximum development potential requirements of Chapters [853](#) and [90](#) KZC shall apply. (Ord. 4333 § 1, 2011; Ord. 4196 § 1, 2009)

.529 Minor Improvements

~~Private walkways~~Walkways, pedestrian bridges, benches, and similar features, as determined by the Planning Official. (Ord. 4551 § 4, 2017)

.611 Ordinary High Water Mark

~~For properties within the jurisdiction of the KZC. Otherwise, the~~The mark that will be found on all lakes and streams by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology; provided, that in any area where the OHWM cannot be found, the OHWM adjoining fresh water shall be the line of mean high water, or as amended by the state. For Lake Washington, the OHWM corresponds with a lake elevation of 18.5 feet, based on the NAVD 88 datum. (Ord. 4551 § 4, 2017)

.612 Ordinary High Waterline or High Water Mark

The mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland; provided, that in any area where the ordinary high waterline cannot be found, the ordinary high waterline adjoining freshwater shall be the elevation of the mean annual flood. This term has the same meaning as "high waterline." ~~See Chapter 83 KZC for the term "ordinary high water mark" applicable to properties within jurisdiction of the Shoreline Management Act.~~ (Ord. 4252 § 1, 2010)

.651 Pervious Surface

~~For properties within the jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise, as~~As opposed to impervious surfaces, these are surfaces that allow water to infiltrate into the ground. Pervious surfaces include pervious paving, lawn, landscaping, bare ground, wood chips, pasture and native vegetation areas. For the purposes of compliance with storm water development regulations, impervious and pervious surfaces are defined pursuant to Chapter 15.52 KMC. (Ord. 4551 § 4, 2017)

.748 Qualified Critical Area and Shorelines Professional

A qualified professional for critical areas and shorelines projects shall have a minimum of five (5) years of experience in the pertinent scientific discipline and experience in preparing critical area or shoreline reports. A qualified critical area or shorelines professional must have obtained a Bachelor's degree in biology,

engineering, geology, environmental studies, fisheries, geomorphology, or a related field. The [Planning Official](#) may require professionals to demonstrate the basis for qualifications and shall make the final determination as to qualifications. A qualified professional must meet the following specific professional requirements, dependent upon the type of critical area on the subject property or shoreline project that is proposed:

1. [Wetlands](#) and [streams](#) qualified professional:
 - a. Shall be certified as a professional [wetland](#) scientist; and
 - b. Have at least five (5) years of full-time work experience delineating [wetlands](#) using the state or federal manuals, preparing [wetland](#) reports, conducting function assessments, and developing and implementing [mitigation](#) plans; and
2. [Fish and wildlife habitat conservation areas](#) qualified professional: A professional biologist, with a degree in biology or a related degree, with experience preparing reports for the relevant type of [species](#).
3. [Geologically hazardous area](#) qualified professional: A professional engineer, geologist or hydrogeologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and groundwater flow systems, and who has experience preparing reports for the relevant type of hazard.
4. [Shorelines qualified professional: A professional engineer, geologist or hydrologist, licensed in the State of Washington, with knowledge of shoreline stabilization measures, a biologist, with a degree in biology or a related degree, and including a professional wetland scientist, a certified arborist, or a shoreline designer or other consultant familiar with lakeshore processes and shore stabilization.](#) (Ord. 4551 § 4, 2017)

.760 Repair and Maintenance

[For properties within the jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise, An-an](#) activity that restores the character, scope, size, and design of a structure to its previously authorized and undamaged condition. Activities that drain, dredge, fill, flood, or otherwise alter [critical areas](#) are not included in this definition. Examples of [repair and maintenance](#) include painting; replacement of siding, windows, or roofing; changing doors to windows and windows to doors, but not including reconstruction or replacement of the entire structure, including exterior bearing walls. (Ord. 4551 § 4, 2017)

.883.15 Species of Local Importance

~~These species of local concern designated by the City in KZC 90.95(8) due to their population status or their sensitivity to habitat manipulation. (Ord. 4551 § 4, 2017)~~

.895 Stream

~~For properties within the jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise, areas~~
Areas where surface waters produce a defined channel or bed that demonstrates clear evidence of the passage of water, including but not limited to bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall. Streams do not include irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or convey a naturally occurring stream that has been diverted into the artificial channel, or are created for the purposes of stream mitigation. (Ord. 4551 § 4, 2017; Ord. 4252 § 1, 2010)

.916 Structure Setback

A minimum required distance from a designated or modified critical area buffer within which no above ground structures may be constructed, except as provided in Chapters 83 and 90 KZC. (Ord. 4551 § 4, 2017)

.947 Upland

~~For properties within the jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise,~~
~~generally~~Generally described as the dry land area above and landward of the OHWM, but not including wetlands. (Ord. 4551 § 4, 2017)

.977 Watershed

~~For properties within the jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise, a~~
region or area bounded on the periphery by a parting of water and draining to a particular watercourse or body of water. (Ord. 4551 § 4, 2017)

.985 Wetland

~~For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise,~~
~~“wetland~~Wetland” or wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically 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 conversion of [wetlands](#). (RCW [36.70A.030](#)) (Ord. 4551 § 4, 2017; Ord. 4252 § 1, 2010)

.986 Wetland Category or Wetland Rating

~~For properties within the jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise; the~~
~~The~~ classification of [wetlands](#) according to the Washington State [Wetland Rating](#) System for Western Washington (Department of Ecology 2014, or as revised). This document contains the definitions, methods and a rating form for determining the categorization of [wetlands](#) below:

1. Category I. Category I [wetlands](#) are: (a) relatively undisturbed estuarine [wetlands](#) larger than one (1) acre; (b) [wetlands](#) of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (c) [bogs](#); (d) mature and old-growth [forested wetlands](#) larger than one (1) acre; (e) [wetlands](#) in coastal lagoons; (f) interdunal [wetlands](#) that score eight (8) or nine (9) habitat points and are larger than one (1) acre; and (g) [wetlands](#) that perform many functions well (scoring 23 points or more). These [wetlands](#): (a) represent unique or rare [wetland](#) types; (b) are more sensitive to disturbance than most [wetlands](#); (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of functions.
2. Category II. Category II [wetlands](#) are: (a) estuarine [wetlands](#) smaller than one (1) acre, or disturbed estuarine [wetlands](#) larger than one (1) acre; (b) interdunal [wetlands](#) larger than one (1) acre or those found in a mosaic of [wetlands](#); or (c) [wetlands](#) with a moderately high level of functions (scoring between 20 – 22 points).
3. Category III. Category III [wetlands](#) are: (a) [wetlands](#) with a moderate level of functions (scoring between 16 and 19 points); (b) can often be adequately replaced with a well-planned [mitigation](#) project; and (c) interdunal [wetlands](#) between 0.1 and one (1) acre. [Wetlands](#) scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II [wetlands](#).
4. Category IV. Category IV [wetlands](#) have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are [wetlands](#) that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific

case. These [wetlands](#) may provide some important functions, and should be protected to some degree.
(Ord. 4551 § 4, 2017)

~~.988-07.990. Wetland of High Conservation Value~~

Wetlands identified here, <https://www.dnr.wa.gov/NHPwetlandviewer>, by the Washington Natural Heritage Program as important ecosystems for maintaining plant diversity in our state. These wetlands are classified as Category I wetlands by the 2014 Department of Ecology Washington State Wetland Rating System for Western Washington.

.992 ~~Wildlife~~ Habitat and Species of Local Importance

- The [habitats and species](#) present within the City which are ~~include coho salmon, sockeye/kokanee salmon, and cutthroat trout, bald eagle, pileated woodpecker and great blue heron based on~~ identified in the Washington Department of Fish and Wildlife's [list of State Priority Habitats and Species \(PHS\)](#) list and maps, and Not included in the list are ~~species within the shoreline jurisdiction regulated under Chapter 83 KZC.~~ (Ord. 4551 § 4, 2017)
- Any species of local concern designated by the City pursuant to KZC 90.95(8) due to their population status or their sensitivity to habitat manipulation, which will be listed here.

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Prior legislation: Ords. 3834, 3938, 3977, 4010, 4072, 4120, 4196, 4238, 4252, 4320, 4442, 4476 and 4491.

INTRODUCTION

90.05 User Guide

The regulations in this chapter apply to activities, uses, alterations, work, and conditions in or near any wetland, stream, minor lake, fish and wildlife habitat conservation areas, or frequently flooded area. These regulations add to and in many cases supersede other City regulations. Anyone interested in conducting any development activity on or near one of these critical areas; wanting to participate in the City's decision on a proposed development under this chapter; or wishing to have a determination made as to the presence of one of these areas on their property, should read these regulations.

For properties within jurisdiction of the Shoreline Management Act, the regulations in Chapter 83 KZC shall be met. Chapter 83 KZC contains wetland, stream and flood hazard reduction regulations for properties located within its jurisdiction. However, regulations contained in this chapter that are not addressed in Chapter 83 KZC continue to apply, such as performance security, dedication and liability.

(Ord. 4551 § 3, 2017)

90.10 Purpose

These regulations were prepared to comply with the Growth Management Act and implement the goals and policies of the City's Comprehensive Plan. The purpose of these regulations is to protect the environment, human life, and property. This purpose will be achieved by preserving the important ecological functions of wetlands, streams, minor lakes, fish and wildlife habitat conservation areas, and frequently flooded areas using best available science. The designation, classification, and regulation of critical areas are intended to protect property rights while assuring preservation and protection of critical areas from loss or degradation, ensuring no net loss of ecological functions and restricting incompatible land uses.

These critical areas perform a variety of valuable biological, chemical, and physical functions that benefit the City and its residents. The functions of these critical areas include, but are not limited to, the following:

1. Wetlands – Wetlands help store and convey flood and storm water, support base stream flow and recharge groundwater, provide erosion control and shoreline protection, maintain and improve water quality, provide fish and wildlife habitat, and provide cultural and socioeconomic values. Wetland functions for flood and storm water control, erosion protection, and water quality improvement are particularly valuable to protect infrastructure and to limit the effects of development on water quality in Kirkland's streams and lakes.

Wetland buffers protect wetlands from or reduce the impacts of adjacent land uses. Buffers serve to moderate runoff volume and flow rates and storm water inputs (hydrology maintenance), remove sediment, excess nutrients, synthetic organic chemicals (e.g., pesticides, oils, and greases) and other toxic substances (water quality improvement), provide shade for surface water temperature (moderate temperature), and deter harmful intrusion into wetlands by humans and pets (disturbance barrier). Buffers provide habitat connectivity for wetland-dependent species that need both aquatic and terrestrial habitats for their life cycle.

The primary purpose of wetland regulations is to achieve a goal of no net loss of wetland function, value, and acreage, which, where possible, includes enhancing and restoring wetlands.

2. Streams – Streams and their associated buffers provide important fish and wildlife habitat and travel corridors; help maintain water quality; store and convey storm and flood water; recharge groundwater; and serve as areas for recreation, education, scientific study, and aesthetic appreciation.

Stream buffers serve an important role in maintaining stream functions that are important for supporting a diverse and productive fish population. These include water quality (i.e., protection from sediment, nutrients, metals, pathogens, herbicides, and pharmaceuticals), water temperature and microclimate, bank stability, invertebrate communities, inputs of organic detritus, instream habitat complexity, including large woody debris, and habitat travel corridors.

The primary purpose of stream regulations is to avoid damage to stream and riparian corridor functions, and where possible, to enhance and restore streams and riparian areas.

3. Minor Lakes – Minor lakes provide important fish and wildlife habitat; store and convey storm and flood water; recharge, storage, and discharge of ground water; and serve as areas for recreation, education, scientific study, and aesthetic appreciation. Because the shallow perimeter of minor lakes often meets the definition of a wetland, many uses and activities in and around lakes are regulated under the wetland regulations.

The primary purpose of minor lake regulations is to avoid impacts to lakes and contiguous stream and wetland areas, and where possible, to enhance and restore minor lakes.

4. Fish and Wildlife Habitat Conservation Areas – Fish and wildlife habitat conservation areas provide important nesting territory as well as spawning and protection areas for state and federally listed endangered, threatened, and sensitive species that have a primary association with that habitat area and state priority habitat that include species of local importance. These habitat areas help maintain long-term viability of these species and contribute to the state's biodiversity. Preservation of the vegetation, faunal, and hydrologic characteristics of these habitat areas is critical to maintaining these species.

The primary purpose of fish and wildlife habitat conservation area regulations is to protect habitats from impacts of adjacent urban uses by minimizing fragmentation of native habitat, controlling invasive species, maintaining or providing habitat connectivity with vegetated corridors between habitat patches, preserving habitat features including native vegetation, snags and downed wood, and providing buffers of adequate width adjacent to the habitat areas.

5. Frequently Flooded Areas – Frequently flooded areas are areas of special flood hazard that help to store and convey storm and flood water; recharge ground water; provide important riparian habitat for fish and wildlife; protect the functions and values of floodplains and serve as areas for recreation, education, and scientific study. Development within these areas can be hazardous to those inhabiting such development, and to those living upstream and downstream. Flooding also can cause substantial damage to public and private property that results in significant costs to the public as well as to private individuals.

The primary purpose of frequently flooded areas regulations is to manage potential risks to public safety and damage to public and private property due to flooding, and to protect instream habitat areas. The City of Kirkland uses the Federal Emergency Management Agency (FEMA) maps as a basis for a determination of the location of frequently flooded areas.

(Ord. 4551 § 3, 2017)

90.15 Applicability

1. General – These regulations apply to land within the City of Kirkland that contains any of the following:
 - a. Wetlands;

- b. Streams;
- c. Minor lakes;
- d. Fish and wildlife habitat conservation areas;
- e. Frequently flooded areas; and
- f. Vegetative buffers required for the above.

2. **Conflicting Provisions** – The regulations in this chapter supersede any conflicting regulations in the Kirkland Zoning Code. For properties within jurisdiction of the Shoreline Management Act, the regulations in Chapter 83 KZC supersede any conflicting regulation in this chapter. If more than one regulation applies to the subject property, then the regulation that provides the greatest protection to critical areas shall apply.

3. **Modifications to Provisions in This Chapter** – The regulations in this chapter may not be modified using other provisions in this code, such as but not limited to historic overlay (Chapter 75 KZC), variances (Chapter 120 KZC), or planned unit developments (Chapter 125 KZC), unless as specified in KZC 90.180, Reasonable Use Exception.

4. **Other Jurisdictions** – Nothing in these regulations eliminates or otherwise affects the responsibility of an applicant or property owner to comply with all other applicable local, state, and federal regulations and permits that may be required.

5. **SEPA Compliance** – Nothing in these regulations or the decisions made pursuant to these regulations affects the authority of the City to review, condition, and deny projects under the State Environmental Policy Act, Chapter 43.21C RCW.

(Ord. 4551 § 3, 2017)

90.20 Critical Areas Maps and Other Resources

The City maintains general mapping of known critical areas. These maps and other available resources (such as topographic maps, soils maps, and aerial photos) are intended only as guides. They depict the approximate location and extent of known critical areas. Some critical areas depicted in these resources may no longer exist and critical areas not shown in these resources may occur. The provisions of this chapter and the findings of a critical areas report and review of the report by the City take precedence over the City’s mapping. It is strongly advised that property owners and project applicants retain qualified critical area professionals to conduct site-specific studies for the presence of critical areas and related buffers.

The City’s map relating to this chapter is entitled “Wetlands, Streams and Minor Lakes” map.

(Ord. 4551 § 3, 2017)

90.25 Regulated Activities

Regulated activities have the potential to adversely impact a critical area or its established buffer. This chapter shall regulate the following activities:

1. Removal, excavation, grading or dredging of material of any kind;
2. Dumping of, discharging of, or filling with any material;
3. Draining, flooding, or disturbing the water level or water table;
4. Driving pilings or placing obstructions;
5. Construction or reconstruction, or expansion of any structure;

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6. Destruction or alteration of vegetation through clearing, pruning, topping, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated critical area;
7. Activities that result in significant changes of water temperature and physical or chemical characteristics of water sources to the critical area, including quantity and pollutants;
8. Any other development activity; and
9. Application of herbicides and pesticides.

(Ord. 4551 § 3, 2017)

REVIEW PROCESS

90.30 City Review Process

1. Activities regulated by this chapter shall be considered using the following decision processes:

Table 90.30.1 City Review Process

Type of Action	City Review Process	Section
Exemptions	Activities permitted outright with no review process (or reviewed with underlying development or land surface modification permit – no review fee)	KZC 90.35
Permitted Activities, Improvements and Uses Subject to Development Standards	Planning Official Decision	KZC 90.40
Exception – Public Agency and Public Utility	Planning Director – Process I, Chapter 145 KZC	KZC 90.45
Programmatic Permits – Public Agency and Public Utility	Planning Official Decision or Planning Director – Process I, Chapter 145 KZC depending on scope of project	KZC 90.50
Wetland Modification	Planning Director – Process I, Chapter 145 KZC	KZC 90.60
Category IV Wetland Exceptions	Planning Official Decision	KZC 90.60
Stream Modification	Planning Director – Process I, Chapter 145 KZC	KZC 90.70
Daylighting of Streams	Planning Official Decision	KZC 90.75
Stream Channel Stabilization	Planning Director – Process I, Chapter 145 KZC <u>Planning Official Decision</u>	KZC 90.85
Moorage Facilities and Other Improvements on Minor Lakes	Planning Director – Process I, Chapter 145 KZC	KZC 90.90
Critical Area Determination	Planning Official Determination	KZC 90.105
Buffer Averaging	Planning Official Decision	KZC 90.115
Interrupted Buffer <u>Limited Buffer Waiver</u>	Planning Official Decision	KZC 90.120
Reasonable Use Exception	Planning Director – Process I, Chapter 145 KZC	KZC 90.180

2. If a development, use or activity requiring approval through Planning Official or Process I pursuant to this chapter is part of a proposal that requires additional approval through Process IIA or Process IIB, the entire proposal shall be decided upon using that other process.

- a. The decisional criteria for a permit reviewed under a Process I in this chapter shall be used for the Process IIA or Process IIB decision.

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- b. The decisional criteria, standards and/or requirements for a decision reviewed under a Planning Official Decision in this chapter shall be used for the Process IIA or Process IIB decision.

(Ord. 4551 § 3, 2017)

90.35 Exemptions

The following activities, improvements and uses have little or no environmental impact, are temporary in nature, or are an emergency and are therefore exempt from the provisions of KZC 90.40 through 90.225, unless otherwise determined by the Planning Official.

An exemption does not give permission to degrade a critical area or ignore risk from natural hazards. All exempted activities shall use reasonable methods to avoid impacts to critical areas or their buffers. Any temporary damage to, or alteration of, a critical area or buffer shall be restored, rehabilitated, or replaced to prior condition or better at the responsible party's expense. Revegetation shall occur during the wet season, but no later than 180 days after the damage or alteration of the critical area or buffer occurred. All other restoration or rehabilitation shall be completed within 60 days of the damage or alteration, unless otherwise approved by the Planning Official.

The following activities, improvements and uses are exempt:

1. Repair and Maintenance of Structures – Repair and maintenance of existing legally established, functioning structures. This provision excludes public streets and utilities. ¹
2. Public Streets – Repair, maintenance, reconstruction and minor expansion of existing public streets, including associated appurtenances, bike lanes, and sidewalks. ^{2, 5, 6}
3. Utilities – Repair and maintenance of utility structures and conveyance systems and their associated facilities including service lines, pipes, mains, poles, equipment and appurtenances – both above and below ground. Replacement, installation, or construction of new utility structures and conveyance systems and their associated facilities within existing improved rights-of-way, existing legally improved private roadways, utility corridors or the Cross Kirkland Corridor and Eastside Rail Corridor. This provision does not include upgrading electric facilities that exceed 115 KV or replacement of hazardous liquid pipelines that increase existing pipeline circumference, or installation of additional hazardous liquid pipelines. ^{3, 5, 6}
4. Demolition – Removal of structures in critical area buffers; provided, that all disturbed soils are stabilized and revegetated with appropriate native vegetation and at spacing intervals listed in the City's Critical Area Plant List using the vegetative buffer standards in KZC 90.130 as a guideline for plant diversity and type.
5. Existing Nonmotorized Trails – Repair and maintenance of existing, legally established nonmotorized trails, including the Cross Kirkland Corridor and Eastside Rail Corridor. ^{1, 5}
6. Existing Landscaping – Landscape maintenance of legally established lawns and gardens; including mowing, pruning, weeding, and planting; provided, that such activities do not expand any further into critical areas or buffers, and excludes removal of significant trees, and the use and application of chemical fertilizers, herbicides and insecticides comply with provisions in KZC 90.195.
7. HVAC Equipment – Addition of HVAC equipment with a footprint of less than nine (9) square feet; provided, that:
 - a. There is no feasible alternative location available;
 - b. It does not expand the area beyond legally established landscaping or improvements;
 - c. It is not located in the critical area and is as far as possible from the critical area;

- d. Noise minimization techniques are provided. HVAC equipment shall be baffled, shielded, and enclosed to ensure compliance with the noise provisions of KZC 115.95, except that the receiving property shall also include the upland edge of the critical area buffer; and
- e. It must meet the setback requirements in KZC 115.115.
8. Site Investigative Work and Studies – Site investigative work and studies necessary for development permits, including geotechnical tests, water quality studies, wildlife studies, and critical area investigations; provided, that any disturbance of the critical area or its buffer shall be the minimum necessary to carry out the work or studies and the area must be restored with native vegetation after testing is done. Use of any mechanized equipment requires prior approval of the Planning Official.
9. Public Restoration⁶ – Restoration of a critical area and its buffer through the removal of nonnative plant species provided all of the following apply:
- a. The entire area cleared of plants must be revegetated with appropriate native vegetation and at spacing intervals listed in the City’s Critical Area Plant List using the Vegetative Buffer Standards in KZC 90.130 as a guideline for plant diversity and type;
- b. The subject property is not located in a high landslide hazard area;
- c. No grading or filling is required to remove nonnative invasive plants or revegetate with native species;
- d. Restoration work shall be restricted to hand removal. Hand removal equipment includes shovels, tillers, clippers, loppers, weed wrenches, and brush cutters and any handheld gas or electric equipment; except that machinery can be used if machinery can access the buffer from an abutting paved roadway without encroaching into the buffer;
- e. Replanting with native vegetation must take place immediately following removal of invasive species;
- f. Goats may be used to remove invasive species only provided their use does not adversely affect stream or wetland functions and they are restricted from access to the wetland or stream. Use of goats may be limited or prohibited by the Planning Official in areas where native vegetation is present and could be damaged;
- g. In all cases, nonnative, invasive species removal shall avoid impacts to native species; and
- h. Citizen volunteers doing restoration must be under the direct supervision of City staff.
10. Private Restoration⁶ – Restoration of a critical area and its buffer through the removal of nonnative invasive plant species listed in the King County Noxious Weed List provided all of the following apply:
- a. The entire area cleared of invasive plants shall be revegetated with appropriate native vegetation and at spacing interval and plant size listed in the City’s Critical Area Plant List using the vegetative buffer standards in KZC 90.130 as a guideline for plant diversity and type;
- b. The subject property is not located in a high landslide hazard area;
- c. No grading or filling is required to remove nonnative invasive vegetation or revegetate with native species;
- d. A planting restoration plan must be submitted to the Planning Official for review and approval prior to any disturbance to the buffer. The plan must include the area to be restored, method of removal, a detailed native planting plan with a plant list and schedule for commencement and completion of the project;
- e. Restoration work shall be restricted to handheld equipment. Handheld equipment includes shovels, tillers, clippers, loppers, weed wrenches, and brush cutters and any handheld gas or electric equipment; machinery such as excavators and bulldozers is not allowed;
- f. Replanting with native vegetation must take place immediately following removal of invasive species;

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g. All removed plant material shall be taken away from the site; and plants that appear on the King County Noxious Weed List must be handled and disposed of according to a noxious weed control plan appropriate to that species; and

h. In all cases, nonnative, invasive species removal shall avoid impacts to native species.

11. Storm Water Dispersion Flow Path – Creation of a vegetated flow path from a dispersion device that is located outside the critical area buffer that flows into the critical area buffer provided the buffer meets the vegetative buffer standards in KZC 90.130, and the design is part of an approved development permit.

12. Other – Educational activities, scientific research, and passive outdoor recreational activities such as bird watching, fishing, and hiking, not including trail building or clearing.

13. Emergency Activities – Emergency activities necessary to prevent an immediate threat to public health, safety, or welfare. Alterations shall be reported to the City within seven (7) days and include evidence of threat or imminent danger. The City may require a permit to be obtained after-the-fact and require the critical area and its buffer to be fully restored in accordance with a critical area report and mitigation/maintenance plan.⁴

14. Beaver Management – Beaver management activities, provided the activity has an approved Hydraulic Project Approval (HPA) from the WA Department of Fish and Wildlife and follows all requirements therein.

15. Private Maintenance Activities Required by the City of Kirkland to mitigate substantial flooding risk to public or private property.

Notes:

¹ Repair and maintenance shall not increase the previously approved structure footprint or impervious area, including paving and previously approved private roadways and driveways and parking areas within a critical area or its buffer, and shall not include foundation replacement. Foundation and complete structure replacement is regulated under KZC 90.185.

² Public street activities shall not increase the impervious area in the right-of-way, or reduce flood storage capacity in the critical area or critical area buffer. Public street activities in this provision also include expansion of pavement into existing impervious street shoulders.

³ Utility activities shall not increase the impervious area in the right-of-way or private roadway or utility corridor or the Cross Kirkland and Eastside Rail Corridors, (except utility poles), or reduce flood storage capacity in the critical area or critical area buffer. Replaced overhead electric utilities and their associated facilities shall not be exempt if the work results in additional vegetation disturbance of the critical area or its buffer because of ongoing required vegetation maintenance due to wider vegetation clearance requirements. Utility activities in this provision also include expansion of existing structures such as substations into existing impervious areas.

⁴ All restoration and mitigation shall occur within the timeframe established with the underlying permit, but in no case more than one (1) year from the date of the emergency.

⁵ The construction drawings shall show the edge of the right-of-way, private roadway or utility corridor, and the existing impervious shoulder area. The drawings shall also specify that all affected critical areas and buffers shall be restored to their pre-project condition or better, including soil stabilization and revegetation.

⁶ All activities shall be undertaken using best management practices as determined by the Planning Official and adhere to the fish and wildlife seasonal restrictions on construction activities as determined by the Washington State Department of Fish and Wildlife.

(Ord. 4551 § 3, 2017)

90.40 Permitted Activities, Improvements or Uses Subject to Development Standards

1. Permitted Activities, Improvements and Uses – Activities, improvements and uses identified in this section are permitted subject to the following approval and development standards. Those activities and uses not identified or not meeting the standards in this section may be proposed under other sections of this chapter.
2. Process – The Planning Official shall review and decide on an application for a permitted activity or use. The general and specific standards in subsections (5) and (6) of this section along with the mitigation plan shall be conditions of approval.
3. Decisional Criteria – The Planning Official may approve a permitted activity or use if it is determined that:
 - a. There is no practical alternative location with less adverse impact on the critical area or its buffer based on a critical area report and mitigation sequencing pursuant to KZC 90.145;
 - b. The mitigation plan pursuant to KZC 90.145 sufficiently mitigates impacts; and
 - c. The project plans meet the general and specific standards in subsections (5) and (6) of this section.
4. Critical Area Determination and Report – The applicant shall submit a critical area determination pursuant to KZC 90.105 and a critical area report pursuant to KZC 90.110.
5. Standards
 - a. Application for permitted activities, improvements or uses identified in this section shall demonstrate that they meet the following standards except as noted in subsection (6) of this section.
 - 1) General mitigation requirements including mitigation sequencing pursuant to KZC 90.145;
 - 2) If located in a wetland or wetland buffer, requirements for wetland compensatory mitigation, pursuant to KZC 90.150;
 - 3) Implement a mitigation plan pursuant to KZC 90.145 and/or KZC 90.150;
 - 4) If located in a fish or wildlife habitat conservation area, requirements of KZC 90.95;
 - 5) Monitoring and maintenance requirements pursuant to KZC 90.160;
 - 6) Financial security requirements pursuant to KZC 90.165;
 - 7) Critical area markers, fencing and signage requirements pursuant to KZC 90.190;
 - 8) Dedication of critical area and buffers requirements pursuant to KZC 90.210;
 - 9) No adverse impact on water quality or conveyance or degradation of critical area functions and values;
 - 10) Structures and improvements located to minimize removal of significant trees; and
 - 11) Restoration of temporary disturbance areas associated with the work to pre-project conditions or better shown on construction drawings and expeditiously done.
 - b. Except as provided in subsection (5)(a) of this section, the list of permitted activities, improvements or uses are not subject to general standards pursuant to KZC 90.105 through 90.225.
6. List of Permitted Activities, Improvements and Uses – The following activities and uses may be permitted; provided, that the specific standards applicable to each activity or use and the general standards in subsection (5) of this section are met.

a. Private Repair and Maintenance of Culverts

- 1) Work limited to removing impediments to improve flow conveyance;
- 2) Work must be done by hand; and
- 3) Shall comply with Washington State Department of Fish and Wildlife's seasonal restrictions on instream work.

b. Private Roadways – New private driveway or easement road through a buffer if there is no other option available to access a property that is both a legal building site and a buildable site, provided:

- 1) The driveway or easement road is the minimum width and length necessary to access the buildable site;
- 2) Buffer disturbance for installation of the driveway or easement road is the minimum necessary;
- 3) Buffer area and function are equal or better than pre-project condition;
- 4) ~~The buffer vegetation~~ An area at a minimum equal to the length and width of the roadway and disturbed areas shall be vegetated using KZC 90.130 as a guideline for plant diversity and type. This shall constitute mitigation for critical area and buffer impacts and
- 5) The project does not include a wetland modification or stream modification pursuant to KZC 90.60 or 90.70, or a reasonable use exception pursuant to KZC 90.180.

c. Private and Public Nonmotorized Trails, Stream Crossings, and Benches and Public Wildlife Viewing Structures

- 1) The improvement shall be located only in the outer 25 percent of the buffer area. Exceptions are stream crossings, and trail access to Forbes Lake and Totem Lake which may require access through a buffer or wetland to get to the lake, and public wildlife viewing structures;
- 2) Stream crossings are not permitted in Type F streams under this section. See KZC 90.70 for proposing stream crossing of Type F streams;
- 3) Trails shall be limited to the least impactful pervious surfaces. Raised boardwalks utilizing approved nontreated pilings are acceptable if found to be the least impacting alternative, and shall not be counted toward lot coverage;
- 4) Private trails shall be no more than three (3) feet in width. Public trails shall be no more than five (5) feet in width;
- 5) Stream crossings shall meet the standards for crossings in KZC 90.70 and Washington State Department of Fish and Wildlife's Water Crossing Guidelines, and other state and federal permits;
- 6) ~~Vegetative buffers shall be provided where possible~~ An area equal to the length and width of the trail corridor and associated disturbed areas shall be vegetated using KZC 90.130 as a guideline for plant diversity and type. This shall constitute mitigation for critical area and buffer impacts; and
- 7) For public improvements, financial security standards of KZC 90.165 and dedication of critical area and buffer requirements of KZC 90.210 are waived.

d. Private and Public Utilities

- 1) New sewer and storm water lines in critical area buffers where necessary to allow for gravity flow, provided they shall be located as far as possible from the critical area edge;

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- 2) New utilities in critical area buffers, other than addressed in subsection (6)(d)(1) of this section; provided, that:
 - (a) The facility shall be only located in the outer 25 percent of the buffer area;
 - (b) The facility is not a hazardous liquid or gas pipeline; and
 - (c) The facility is not a substation;
- 3) New piped storm water outfalls and associated dissipation devices, such as flow spreaders and rock pads, within critical area buffers, provided:
 - (a) Discharge of storm water outside of the buffer is not feasible as determined by the City; or
 - (b) If property adjoining the buffer is greater than 15 percent slope, a specific study by a geotechnical engineer or engineering geologist must show that discharge outside of the buffer will cause slope instability or excessive erosion, and therefore the discharge needs to be in the buffer; and
 - (c) The outfall is located as far as possible from the critical area;
- 4) Boring for utilities/utility corridor under a critical area, provided:
 - (a) Not permitted in a Category I Wetland;
 - (b) Entrance/exit portals must be located in the outer 25 percent of the critical area buffer;
 - (c) Boring does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column; and
 - (d) A specific study by a hydrologist is required to determine whether the ground water connection to the critical area or percolation of surface water down through the soil column will be disturbed;
- 5) For City utility projects, financial security standards of KZC 90.165 are waived;
- 6) For public utility projects, dedication of critical area and buffers requirements pursuant to KZC 90.210 may be waived if the Planning Official determines that they are not warranted; and
- 7) For private and public utility projects, critical area markers, permanent fencing and signage requirements pursuant to KZC 90.190 may be waived if the Planning Official determines that they are not warranted.

e. Private and Public Instream Maintenance

- 1) Work limited to removing inorganic debris, sediment, invasive vegetation and replanting of streambank with native vegetation to improve instream fish habitat, fish passage and flow conveyance;
- 2) Work must be done by hand. Hand removal equipment may include shovels, tillers, clippers, loppers, weed wrenches, and brush cutters and any handheld gas or electric equipment;
- 3) Public work may include machinery if it can access the buffer from an abutting paved roadway without encroaching into the buffer;
- 4) Maintenance shall comply with Washington State Department of Fish and Wildlife's seasonal restrictions on stream work, including state permit approvals;
- 5) For public instream maintenance, financial security standards of KZC 90.165 are waived;

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- 6) For public instream maintenance, dedication of critical area and buffers requirements pursuant to KZC 90.210 may be waived if the Planning Official determines that they are not warranted; and
 - 7) For private and public instream maintenance, critical area markers, permanent fencing and signage requirements pursuant to KZC 90.190 may be waived if the Planning Official determines that they are not warranted.
- f. Private and Public Restoration – Restoration of a critical area and its buffer in high landslide hazard areas and/or where grading is necessary for the removal of nonnative plants, provided:
- 1) The entire area cleared of invasive plants shall be revegetated with appropriate native vegetation and at spacing intervals listed in the City’s Critical Area Plant list, using the vegetative buffer standards in KZC 90.130 as a guideline for plant diversity and type;
 - 2) The City shall require a geotechnical investigation in high landslide hazard areas pursuant to Chapter 85 KZC, and if determined to be necessary based on the investigation, a geotechnical report with recommendations on special mitigation techniques or measures, along with an erosion control plan;
 - 3) Removal of invasive plant species and other restoration work shall be restricted to work by hand, including use of shovels, tillers, clippers, loppers, weed wrenches, and brush cutters and any handheld gas or electric equipment;
 - 4) Replanting with native vegetation must take place immediately following removal of invasive species;
 - 5) For public restoration, machinery may be used if the use of such equipment is determined acceptable by the geotechnical investigation and/or report;
 - 6) For public restoration, citizen volunteers doing restoration must be under the direct supervision of City staff;
 - 7) For private restoration, removed invasive plant material shall be taken off the site; and plants that appear on the King County Noxious Weed List must be handled and disposed of according to a noxious weed control plan appropriate to that species; and
 - 8) For public restoration, financial security standards of KZC 90.165 are waived.
- g. Private and Public Demolition – Removal of structures in critical areas; provided, that:
- 1) All disturbed soils are stabilized and revegetated with appropriate native vegetation and at spacing intervals listed in the City’s Critical Area Plant List using the vegetative buffer standards in KZC 90.130 as a guideline for plant diversity and type;
 - 2) Replanting with native vegetation must take place immediately following the clearing activity;
 - 3) For public demolition, financial security standards of KZC 90.165 are waived;
 - 4) For public demolition, dedication of critical area and buffers requirements pursuant to KZC 90.210 and critical area markers are waived; and
 - 5) For private and public demolition, permanent fencing and signage requirements pursuant to KZC 90.190 may be waived if the Planning Official determines they are not warranted.
- h. Public Streets – Widening of existing public streets in critical area buffers, provided:
- 1) The street shall only be located in the outer 25 percent of the buffer area;

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- 2) Any necessary culvert modification or extension is designed to meet the Washington Department of Fish and Wildlife's Water Crossing Guidelines;
 - 3) Financial security standards of KZC 90.165 and dedication of critical area and buffers requirements pursuant to KZC 90.210 are waived; and
 - 4) Critical area markers, permanent fencing and signage requirements pursuant to KZC 90.190 may be waived if the Planning Official determines that they are not warranted.
- i. Improvements Associated with the Cross Kirkland Corridor and Eastside Rail Corridor – New, modified or relocated public nonmotorized trails within the Cross Kirkland Corridor and Eastside Rail Corridor and connecting to either corridor approved under the City's Cross Kirkland Corridor Master Plan or as amended. Financial security standards of KZC 90.165 and dedication of critical area and buffers requirements pursuant to KZC 90.210 are waived.
- j. Improvements Associated with City Park, Transportation, and Utility Master Plans – Any new or modified City projects, other than those associated with the Cross Kirkland Corridor or Eastside Rail Corridor, approved under a master plan approved by the City Council, for which a critical area determination and delineation pursuant to KZC 90.105 and location of critical areas have been considered as part of the master plan process. Financial security standards of KZC 90.165 and dedication of critical area and buffers requirements pursuant to KZC 90.210 are waived.

k. Temporary construction impacts to wetland and stream buffers, provided:

- 1) The impact is the minimum necessary for the task,
- 2) The construction is for an approved use, and
- 3) The buffer area is fully restored to pre-construction conditions immediately following completion of construction.

(Ord. 4551 § 3, 2017)

90.45 Public Agency and Public Utility Exceptions

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

1. General – Prior to seeking approval through this section, the Planning Official in conjunction with a public agency or public utility shall first determine that:
 - a. The project scope cannot be approved under KZC 90.60 for wetland modifications; KZC 90.70 for stream modifications; KZC 90.85 for stream channel stabilization; and KZC 90.95 for wildlife habitat conservation areas; and
 - b. The project cannot meet the requirements under KZC 90.130, Vegetative Buffer Standards; and KZC 90.140, Structure Setback from Critical Area Buffer; or any other provision in this chapter.
2. Process – A critical area exception for public agencies and public utilities shall be reviewed and decided upon using Process I, pursuant to Chapter 145 KZC.
3. Decisional Criteria – The Planning Director shall make a decision based on the following criteria:
 - a. There is no other practical alternative to the proposed project with less impact on the critical areas or buffer;
 - b. Strict application of this chapter would unreasonably restrict or prohibit the ability to provide public utilities or public agency services to the public;
 - c. The proposal minimizes impacts to the critical area or buffer through mitigation sequencing, and through type and location of mitigation, pursuant to KZC 90.145 and 90.150, if applicable, including such installation measures as

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locating facilities in previously disturbed areas, boring rather than trenching, and using pervious or other low impact materials; and

d. The proposal protects and/or enhances critical area and buffer functions and values, consistent with the best available science and with the objective of no net loss of critical area functions and values.

4. Submittal Requirements – The application shall include the City’s critical area determination pursuant to KZC 90.105; ~~and~~ a critical area report pursuant to KZC 90.110; a mitigation plan pursuant to KZC 90.145, and ~~pursuant to a mitigation plan pursuant to~~ –KZC 90.150 if a wetland is to be modified; a response to the decisional criteria in subsection (3) of this section; and the following documents and/or analysis based upon the type of exception proposed in order to determine that the strict application of this chapter would otherwise prohibit a development proposal:

a. Wetland Modifications

- 1) The public agency or public utility shall submit a wetland modification assessment pursuant to KZC 90.60(6); and
- 2) The public agency or public utility shall demonstrate that the requirements in KZC 90.60(8) and (9) cannot be met.

b. Stream Modifications

- 1) The public agency or public utility shall submit a stream modification assessment pursuant to KZC 90.70(5); and
- 2) The public agency or public utility shall demonstrate that the requirements in KZC 90.70(6) and (7) cannot be met.

c. Daylighting of Stream – The public agency or public utility shall submit a stream daylighting plan demonstrating that the requirements in KZC 90.75(3) cannot be met.

d. Stream Channel Stabilization – The public agency or public utility shall submit a streambank assessment and stream channel stabilization plan demonstrating that the requirements in KZC 90.85(5) and (6) cannot be met.

e. Wildlife Habitat Conservation Area Modifications

- 1) The public agency or public utility shall submit an assessment of a habitat conservation area pursuant to KZC 90.95(3), a habitat management plan pursuant to KZC 90.95(6); and
- 2) The public agency or public utility shall demonstrate that the requirements in KZC 90.95(7) cannot be met.

f. Buffer Averaging – The public agency or public utility shall demonstrate that the standards in KZC 90.115(2) cannot be met.

g. Vegetative Buffer Standards – The public agency or public utility shall demonstrate that the standards in 90.130(2) through (4) cannot be met.

h. Structure Setback – The public agency or public utility shall demonstrate that the standards in KZC 90.140 cannot be met.

5. Waiver – Planning Official may waive a specific submittal requirement if it is determined not to be applicable or necessary.

(Ord. 4551 § 3, 2017)

90.50 Programmatic Permit – Public Agency and Public Utility

1. General – A public programmatic permit may be issued for either a permitted activity subject to the submittal requirements and development standards of permitted activities, improvements and uses with standards in KZC 90.40 or public agency or public utility exception in KZC 90.45, if it meets the requirements of this section, as determined by the Planning Official. Exempted activities pursuant to KZC 90.35 do not require a programmatic permit.
2. Criteria for a Programmatic Permit – The activity shall:
 - a. Be repetitive and part of a maintenance program or other similar program;
 - b. Have the same or similar identifiable impacts, as determined by the City, each time the activity is repeated at all sites covered by the programmatic permit; and
 - c. Be suitable to having standard conditions that will apply to all sites.
3. Process
 - a. For an activity that would otherwise be approved as a permitted activity subject to development standards, the Planning Official shall make the decision on the programmatic permit.
 - b. For an activity that would otherwise be approved as a public agency or public utility exception, the programmatic permit shall be reviewed and decided upon pursuant to a Process I described in Chapter 145 KZC.
4. Required Conditions – The City shall uniformly apply conditions to each activity authorized under the programmatic permit at all locations covered by the permit. The City may require that the applicant develop and have uniformly applicable conditions as part of the programmatic permit application, subject to City approval. The City shall not issue a programmatic permit until applicable conditions are developed and approved by the City.
5. Inspections – Activities authorized under a programmatic permit shall be subject to inspection by the Planning Official and prearranged in advance. The Planning Official may require that the applicant submit periodic status reports. The frequency, method and contents of the inspection notifications and reports shall be specified as conditions in the programmatic permit.
6. Revisions and Modifications to Permit – The Planning Official may subsequently require revisions, impose new conditions or otherwise modify the programmatic permit or withdraw the permit and require that the applicant undergo review for a new permitted activity approval or new exception for a public agency and public utility, if the Planning Official determines that:
 - a. The programmatic permit or activities authorized under the permit no longer comply with this chapter;
 - b. The programmatic permit does not provide adequate regulation of the activity;
 - c. The programmatic permit conditions or the manner in which the conditions are implemented are not adequate to protect against the impacts resulting from the activity; or
 - d. A site requires site-specific regulation.
7. Other Agency Requirements – If an activity covered by a programmatic permit also requires other county, state and/or federal approvals, to the extent feasible, the City shall reference those conditions of other approvals in the programmatic permit.

(Ord. 4551 § 3, 2017)

WETLANDS

90.55 Wetlands and Associated Buffer Standards

Wetlands and associated buffer standards are provided in this section. The table below is a summary of the wetland regulations. More details are provided for some of the regulations elsewhere in this chapter.

Table 90.55.1 Wetlands and Associated Buffer Standards

Wetland Classification and Rating	In accordance with the 2014 Department of Ecology Washington State Wetland Rating System for Western Washington, as revised. Wetland category and rating shall be determined through a survey and field investigation by a qualified critical area professional approved by the City as part of a critical area report in KZC 90.110. Wetland rating categories shall not change due to illegal modification.				
Wetland Delineation	In accordance with the approved federal delineation manual and applicable regional supplements described in WAC 173-22-035 and based on field investigation and a survey. See KZC 90.110.				
Wetland Determination	Planning Official makes determination if a wetland and/or a buffer exist on the subject property, and if so, its category, rating, boundaries and buffer width based on a required critical area report pursuant to KZC 90.110. In addition, the Planning Official makes determination if the standard buffer meets the buffer vegetative standards in KZC 90.130.				
Wetland Buffer Width Standard	Wetland Buffer Widths				
	Wetland Category	Buffer Width Based on Habitat Points			
		3-4 5 habitat pts.	5 habitat pts.	6-7 habitat pts.	8-9 habitat pts.
	Category I: Bogs and <u>Wetlands of High Conservation Areas Value</u>	190 feet	190 feet	190 feet	225 feet
	Category I: Others	75 feet	105 feet	165-110 feet	225 feet
	Category II	75 feet	105 feet	165-110 feet	225 feet
	Category III	60 feet	105 feet	165-110 feet	225 feet
	Category IV	40 feet			
		See KZC 90.130 for buffer vegetation requirements			
Wetland Buffer Width Alternative	Applicant can choose not to comply with the vegetative buffer standards in KZC 90.130 by complying with the following requirements: 1) Increase buffer width listed above in Wetland Buffer Widths by 33% within entire buffer. 2) Remove all structures and improvements within the buffer. 3) Discontinue any maintenance of lawn and nonnative vegetation within the buffer. 4) Cease all activities in the buffer, except those permitted under KZC 90.35(12) and (13). In no case shall a standard and an alternate buffer standard be combined for a development proposal.				
Other Standards	<ul style="list-style-type: none"> • Buffer averaging is permitted for both the standard buffer and the alternative buffer if criteria are met. See KZC 90.115. • Increased buffer width may be required if wetland or its buffer contains or is adjacent to severe erosion area, habitat of certain species or frequently flooded area based on critical area report. See KZC 90.125. • Wetlands that are degraded must be restored if the project is subject to KZC 90.130(3)(a) for the vegetative buffer standard and/or a wetland modification is proposed. A critical area report shall address any needed restoration due to degraded vegetation, habitat, water quality and hydrologic functions. • Standard buffers must meet the vegetative buffer standards. See KZC 90.130. • Measures to minimize impact to wetlands must be implemented for standard buffers. See KZC 90.155. • For wetlands that score 6 or more points for habitat function, the following conditions must be maintained in order to use the standard buffers, as follows: <ul style="list-style-type: none"> ◦ If an existing, relatively undisturbed vegetated corridor at least 100 feet wide exists between the on-site wetland and other Priority Habitats, as defined by the Washington State Department of Fish 				

	<p>and Wildlife, and the off-site portion of the corridor is already protected via an existing conservation easement, critical areas regulations, or other legal requirement, the portion of the corridor on-site must also be protected by a similar legal protection. All other applicable criteria found in 90.55 must also be met. The evaluation of presence or absence of the conditions described above must be completed as part of the critical areas report.</p> <ul style="list-style-type: none"> o If no such corridor is present to protect, the standard buffers alone may be used with the other applicable criteria contained in 90.55. If an option for protection of a corridor, as defined under (a) above, exists on the parcel, but is not provided, standard buffer widths must be increased by 33%. <ul style="list-style-type: none"> • Fencing and signage are required along the entire upland edge of buffer both during construction and upon completion of the project. See KZC 90.190. • For voluntary restoration, see KZC 90.35 and 90.40. • For code enforcement to correct an illegal modification to a wetland or buffer, see KZC 90.205. • Wetlands and buffers shall be placed in recorded critical area easements or tracts for perpetual protection and maintenance. See KZC 90.210.
Structure Setback from Buffer	10-foot-wide structure setback is required from upland edge of the entire buffer. Improvements listed in KZC 90.140 are permitted in the setback.
Activities, Improvements and Uses in Wetlands	Activities, improvements and uses are prohibited within wetlands and associated buffers, except those exempted or permitted subject to development standards in KZC 90.35 and 90.40, or those approved under a City review process in this chapter.
Modification to Wetlands, Related Impacts to Associated Buffers	<ul style="list-style-type: none"> • Modification to a wetland and related impacts to buffers require approval pursuant to a Process I, Chapter 145 KZC along with a critical area report, mitigation sequencing, and compensatory mitigation plan. See KZC 90.110, 90.145 and 90.150. • Buffer standard may be modified for vehicular access to a property that is both a legal building site and a buildable site pursuant to KZC 90.40 and for an interrupted buffer pursuant to KZC 90.120. Also, see nonconformances pursuant to KZC 90.185. • Isolated Category IV wetlands less than 4,000 square feet and wetlands less than 1,000 square feet pursuant to KZC 90.60 are not required to meet mitigation sequencing, but compensatory mitigation is required pursuant to KZC 90.150.

(Ord. 4551 § 3, 2017)

90.60 Wetland and Wetland Buffer Modification

1. Applicability- This section does not apply to wetland modifications and wetland buffer modifications that may be approved in certain circumstances under a Reasonable Use Exception pursuant to KZC 90.180; Permitted Activities, Improvements Or Uses Subject To Development Standards pursuant to KZC 90.40; Public Agency And Public Utility Exceptions pursuant to KZC 90.45; or Programmatic Permit- Public Agency And Public Utility pursuant to KZC 90.50.

~~Modifications to Wetlands—Modifications to wetlands and related impacts to associated buffers shall be prohibited, except as permitted as part of a wetland modification approved under this section. Wetland modifications and the associated buffers may also be approved in certain circumstances under a reasonable use exception pursuant to KZC 90.180, permitted activities, improvements or uses subject to development standards, pursuant to KZC 90.40, public agency and public utility exceptions, pursuant to KZC 90.45, or programmatic permit—public agency and public utility pursuant to KZC 90.50.—~~

~~The following modifications may be proposed:~~

- ~~a. Fill of a wetland;~~
- ~~b. Structures and improvements in a wetland;~~
- ~~c. Removal and/or alteration of vegetation in wetland; and~~
- ~~d. Impacts to associated buffer as part of wetland modification.~~

2. ~~Exception—Wetland Modification- Modifications to wetlands shall be prohibited except that~~ the following limited types of wetlands are not required to meet mitigation sequencing pursuant to KZC 90.145 and may be filled if the impacts are fully mitigated. The applicant shall submit a critical area report pursuant to KZC 90.105 and 90.110 verifying that the following criteria are met.

a. Category IV isolated wetlands less than 4,000 square feet that:

- 1) Are not associated with streams or their buffers;
- 2) Are not part of a wetland mosaic;
- 3) Do not score ~~five-six (56)~~ or more points for habitat function; and
- 4) Do not contain state or federal designated endangered, threatened or sensitive species or their habitats or state priority habitats, including species of local importance identified in KZC 90.95.

The Planning Official may approve an application under this exception only if the applicant provides compensatory mitigation for both wetland and buffer loss pursuant to KZC 90.150. Impacts shall be mitigated through an in-lieu fee or mitigation bank program if a program is available. Otherwise, preference for mitigation location shall be pursuant to KZC 90.145.

It is the applicant's responsibility to arrange a jurisdictional determination by the U.S. Army Corps of Engineers on whether a wetland is isolated but regulated by the Department of Ecology for filling a Category IV isolated wetland.

b. Category IV isolated wetlands less than 1,000 square feet that meet subsection (2)(a) of this section are exempt from buffer requirements. The Planning Official may approve an application under this exception only if the applicant provides compensatory mitigation pursuant to KZC 90.150 for the wetland loss. No compensatory mitigation is required for the buffer loss.

3. ~~Limited-Wetland~~ Buffer Modification – A wetland buffer may not be modified or otherwise reduced, except if part of an approved wetland or buffer modification in this section. ~~Wetland buffer modifications also may be approved in limited circumstances under permitted activities, improvements or uses subject to development standards pursuant to KZC 90.40, public agency and public utility exceptions pursuant to KZC 90.45, under programmatic permit— public agency and public utility pursuant to KZC 90.50, or under a reasonable use exception pursuant to KZC 90.180.~~

The following wetland buffer modifications may be proposed:

a. Impacts to associated buffer as part of wetland modification;

b. Buffer averaging permitted pursuant to KZC 90.115; or

~~b.c.~~ Interrupted buffer waiver permitted pursuant to KZC 90.120.

~~45.~~ Process – Unless otherwise specified in KZC 90.40, 90.115 or 90.120, any proposal to modify a wetland and its buffer shall be reviewed and approved pursuant to Process I, described in Chapter 145 KZC.

~~56.~~ Decisional Criteria – In addition to the criteria of a Process I, the Planning Director shall only approve a modification to a wetland and buffer if:

a. Mitigation sequencing requirements have been met. See KZC 90.145;

b. Compensatory mitigation and mitigation plan requirements are approved. See KZC 90.150;

c. It will not adversely affect fish, wildlife, or their habitat, including habitat for endangered, threatened or sensitive species, or species of local significance. See KZC 90.95;

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- d. It will not adversely affect water quality;
- e. It will not have an adverse effect on drainage and/or storm water detention capabilities either on-site or to the adjacent area;
- f. It will not result in unstable geologic and soil conditions or create an erosion hazard;
- g. It will not have fill material that contains organic or inorganic material that would be detrimental to water quality or fish and wildlife habitat; and
- h. All exposed areas will be stabilized with native vegetation normally associated with wetlands and/or buffers, as appropriate.

The wetland compensatory mitigation plan, additional requirements in subsection (9) of this section and any conditions of approval for the modification shall be conditions for all related land surface modification and/or building permit approvals.

67. Wetland Modification Assessment – As part of the application for a wetland modification, the applicant shall submit a wetland modification assessment prepared by a qualified critical area professional approved by the City, and also fund the City's peer review of the assessment. The assessment shall contain:

- a. The City's final critical area determination and critical area report along with the survey of the wetland and/or buffer on the subject property pursuant to KZC 90.105;
- b. Description of the proposed modification to the wetland and associated impact to the buffer if applicable;
- c. Analysis of mitigation sequencing for the proposal and mitigation as required in KZC 90.145. If the vegetative buffer standards are required under KZC 90.130, the required enhanced buffer may not be used towards mitigating a modified buffer;
- d. Evaluation of the effects of the proposed modification on the functions and values of the wetland and the buffer. The assessment shall look at impacts to water quality, storm water detention, erosion protection, functions of the wetland and wildlife habitat and frequently flooded areas and any other potential impact determined by the Planning Official; and
- e. Any other information or studies determined necessary by the Planning Official.

78. Wetland Compensatory Mitigation Plan – As part of the application for a wetland modification, the applicant shall submit a compensatory mitigation plan pursuant to KZC 90.150 that is prepared by a qualified critical area professional approved by the City. The applicant shall also fund City peer review of the plan. The plan shall include mitigation for lost or affected functions; type, location, and approach of compensation; timing of the mitigation; a monitoring and maintenance plan and financial security estimate as required in KZC 90.160 and 90.165.

89. Buffers for Mitigation Sites – A wetland that is created, restored, or enhanced as on-site or off-site compensation within Kirkland for an approved wetland modification shall have a buffer width that is applicable to the wetland category for the created, restored, or enhanced wetland.

910. Additional Requirements for Approved Wetland Modification

- a. All work shall be carried out under the direct supervision of a qualified critical area professional approved by the City and paid for by the applicant during all phases of the project;
- b. The requirements for wildlife habitat conservation areas in KZC 90.95 and frequently flooded areas in KZC 90.100 shall be met if applicable;
- c. If a proposed wetland modification will result in the creation or expansion of a wetland or its buffer on any property other than the subject property, a statement signed by the owners of all affected properties, in a form

approved by the City Attorney, shall be submitted with the modification application and recorded in the King County Recorder’s Office. The statement shall consent to the critical area and/or buffer creation or increase on their property; and

d. Any required state and federal permits and authorizations shall be obtained prior to conducting site work.

(Ord. 4551 § 3, 2017)

STREAMS

90.65 Streams and Associated Buffer Standards

Stream and associated buffers standards are provided in this section. The table below is a summary of the stream regulations. More details are provided for some of the regulations elsewhere in this chapter.

Table 90.65.1 Streams and Associated Buffer Standards

Stream Classification	In accordance with WAC 222-16-030, as amended. The Planning Official makes final determination. Stream classification shall not change due to illegal modifications.		
Stream Determination	Planning Official makes determination if a stream and/or a buffer exist on the subject property, and if so, a stream’s classification and boundary, and width of buffer based on required critical area report pursuant to KZC 90.110. In addition, the Planning Official makes determination if the standard buffer meets the vegetative buffer standards in KZC 90.130.		
Stream Buffer Width Standard	Stream Buffer Widths		
	Stream Type	Buffer Width	
	F (Fish bearing)	100 feet	
	Np (Perennial non-fish bearing)	50 feet	
	Ns (Seasonal non-fish bearing)	50 feet	
	See KZC 90.130 for buffer vegetation requirements		
Stream Buffer Width Alternative	Applicant may choose not to comply with the vegetative buffer standards in KZC 90.130 by complying with the following requirements: 1) Increase buffer width listed above in stream buffer widths by 33% within entire buffer. 2) Remove all structures and improvements within the buffer. 3) Discontinue any maintenance of lawn and nonnative vegetation within the buffer. 4) Cease all activities in the buffer, except those permitted under KZC 90.35(12) and (13). In no case shall a standard and an alternate buffer standard be combined for a development proposal.		
Other Standards	<ul style="list-style-type: none"> • Buffer averaging is permitted for both the standard buffer and the alternative buffer if criteria are met. See KZC 90.115. The Planning Official makes decision. • Increased buffer width may be required if the stream or its buffer contains or is adjacent to a severe erosion area, habitat of certain species or frequently flooded area based on critical area report. See KZC 90.125. • Streams that are degraded must be restored if the project is subject to KZC 90.130(3)(a) for a vegetative buffer and/or a stream modification is proposed. A critical area report shall address any needed restoration due to degraded vegetation, habitat, water quality and hydrologic functions with specific consideration for anadromous salmon. • Standard buffers must meet vegetative buffer requirements pursuant to KZC 90.130. • Buffers shall be provided where a stream abuts an inlet and outlet of culverted streams as shown in Chapter 180 KZC, Plate 16A. • Fencing and signage are required along the entire upland edge of buffer both during construction and upon completion of a project. See KZC 90.190. • Voluntary restoration of streams and buffers or instream maintenance, see KZC 90.35 and 90.40. • For code enforcement to correct an illegal modification to a stream or buffer, see KZC 		

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	<p>90.205.</p> <ul style="list-style-type: none"> Streams and buffers shall be placed in recorded critical area easements or tracts for perpetual protection and maintenance. See KZC 90.210.
Structure Setback from Buffer	10-foot-wide structure setback is required from upland edge of the entire buffer. Improvements listed in KZC 90.140 are permitted within the setback.
Activities, Improvements and Uses in Streams	Activities, improvements and uses shall be prohibited within streams and associated buffers, except those exempted or permitted subject to development standards in KZC 90.35 and 90.40, or those approved under another City review process in this chapter.
Modifications to Stream and Impacts to Associated Buffer	<ul style="list-style-type: none"> Modification to streams and related impacts to buffers require approval pursuant to Process I, Chapter 145 KZC along with a critical area report, mitigation sequencing, and mitigation plan. See KZC 90.70, 90.110 and 90.145. Buffer standards may be modified for vehicular access to a property that is both a legal building site and a buildable site pursuant to KZC 90.40, for daylighting a stream pursuant to KZC 90.75, and for an interrupted limited buffer waivers pursuant to KZC 90.120. Also, see KZC 90.185, Nonconformances. Impacts to stream buffers shall be mitigated at a minimum of a 1:1 ratio.
	Daylighting of a stream is encouraged. The Planning Official makes decision unless it is part of approval pursuant to Process I, Chapter 145 KZC. See KZC 90.75.

(Ord. 4551 § 3, 2017)

90.70 Stream Modification

~~1. Applicability- This section does not apply to stream modifications or stream buffer modifications that may be approved in certain circumstances under a reasonable use exception pursuant to KZC 90.180; permitted activities, improvements or uses subject to development standards pursuant to KZC 90.40; public agency and public utility exceptions pursuant to KZC 90.45; or programmatic permit- public agency and public utility pursuant to KZC 90.50~~

~~2. Stream Modification – Modifications to streams and associated impacts to buffers are prohibited, except as approved as part of a stream modification in this section. Stream modifications may also be approved in certain circumstances under permitted activities, improvements or uses subject to development standards pursuant to KZC 90.40; public agency and public utility exceptions pursuant to KZC 90.45; programmatic permit – public agency and public utility pursuant to KZC 90.50; or reasonable use exception pursuant to KZC 90.180.~~

The following stream modifications may be considered:

- a. Stream crossings for Type F streams (see KZC 90.40 for Type Np and Ns);
- b. Culverts and bridges;
- c. Change in meandering course of a stream;
- d. Relocation of a Type NS or NP stream. Relocation of a Type F stream is not permitted; and
- e. Impacts to buffers associated with a stream modification.

~~3. Limited Buffer Modification – A stream buffer may not only be modified or otherwise reduced as, except if part of an approved stream or buffer modification in this section or. ~~Stream buffer modifications may also be approved in limited circumstances under permitted activities, improvements or uses subject to development standards pursuant to KZC 90.40; public agency and public utility exceptions pursuant to KZC 90.45; programmatic permits – public agency and public utility pursuant to KZC 90.50; or reasonable use exception pursuant to KZC 90.180.~~~~

The following stream buffer modifications may also be proposed in conjunction with the following sections:

- a. ~~Impacts to associated buffer as part of stream modification, pursuant to 90.70.2.~~

- ~~ab.~~ Change to meandering course of a stream pursuant to KZC 90.80;
- ~~bc.~~ Daylighting of a stream pursuant to KZC 90.~~80~~75;
- ~~ed.~~ Buffer averaging permitted pursuant to KZC 90.115; or
- ~~de.~~ ~~Interrupted-Limited~~ buffer waivers permitted pursuant to KZC 90.120.
- ~~34.~~ Process – ~~Any All proposals in subsection 2 and subsection 3.a above shall to modify a stream and buffer shall~~ be reviewed and decided upon pursuant to Process I, described in Chapter 145 KZC. All proposals in subsection 3.b through 3.e above shall be decided upon by the Planning Official.
- ~~45.~~ Decisional Criteria – For all proposals in subsection 3.b through 3.e above, refer to the decisional criteria in the applicable section. For proposals in subsection 2 and 3.a above, in addition to criteria of Process I, the Planning Director shall only approve a modification to a stream and impact to the buffer if:
- a. Mitigation sequencing requirements have been met. See KZC 90.145; and
 - b. The applicant has demonstrated, where applicable, based on information provided by a civil engineer and a qualified critical area professional approved by the City, that:
 - 1) It will not be detrimental to fish habitat, including fill material that contains organic or inorganic material;
 - 2) It will not have an adverse effect on drainage, storm water detention capabilities and base flood storage volume and function;
 - 3) It will not have an adverse effect on water quality or frequently flooded areas;
 - 4) It will not increase velocity upstream or downstream;
 - 5) It will not increase sediment load upstream or downstream;
 - 6) It will not result in unstable geologic and soil conditions and slope conditions or create an erosion hazard or contribute to scouring actions;
 - 7) All exposed areas are stabilized with vegetation normally associated with native stream buffers, as appropriate;
 - 8) Existing native trees and other native vegetation are retained to the maximum extent feasible given site conditions and the proposal;
 - 9) The stream modification plan is sufficient to mitigate identified impacts;
 - 10) For streams placed in culverts or stream crossings, fish passage will not be impaired and the Washington State Department of Fish and Wildlife’s design criteria for road culverts for fish passage are met;
 - 11) For change in meandering course for the stream, demonstrate that the change is the only feasible option to stop excessive erosion to protect legally established buildings that cannot be achieved through streambank stabilization and will improve the overall functions and value of the stream;
 - 12) For stream crossings, demonstrate that crossings shall have no adverse impact on instream habitat and flow conveyance;
 - 13) For relocation of a Type Ns or Np stream, demonstrate that relocation would improve stream functions; and

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- 14) With the exception of meandering a stream, submit a statement signed by each owner of all adjacent affected properties consenting to the modification if it results in creation or expansion of a stream or stream buffer on their properties.

The stream and/or associated buffer modification plan, the additional requirements in subsection (7) of this section and any conditions of approval shall be conditions for all related land surface modification and/or building permit approvals.

56. Stream Modification Assessment – As part of the application for a modification, the applicant shall submit a stream modification assessment prepared by a qualified critical area professional approved by the City. The applicant shall also fund the City's peer review of the assessment. The assessment shall contain:

- a. The City's final stream determination decision pursuant to KZC 90.105 and critical area report pursuant to KZC 90.110, including the vegetative buffer assessment, and a survey of the stream and its buffer;
- b. Description of the proposed modification to the stream and impact to the associated buffer if applicable;
- c. Analysis of mitigation sequencing and proposed mitigation as required in KZC 90.145. If the vegetative buffer standards are required under KZC 90.130, the enhanced buffer may not be used towards mitigating a proposed impacted buffer;
- d. Modeling of impacts to stream;
- e. Evaluation of the effects of the proposed modification on the functions and values of the stream and the buffer, including on water quality and fish and wildlife habitat pursuant to KZC 90.95; and
- f. Any other information or studies determined necessary by the Planning Official.

67. Stream Modification Plan – As part of the application for a modification, the applicant shall submit a stream modification plan prepared by a qualified critical area professional approved by the City. Also, the applicant shall fund the City's peer review of the plan. The plan shall contain:

- a. A topographic survey showing existing and proposed topography and improvements;
- b. Schedule of the project for all work;
- c. Written description of how the proposed modification plan will mitigate any adverse impacts identified in the stream modification assessment and any associated impact to the buffer if applicable in subsection (5) of this section;
- d. Written description of how the proposed modification plan will improve water quality, conveyance, fish and wildlife habitat, wetland recharge (if hydrologically connected to a wetland), and storm water detention capabilities of the stream;
- e. Detailed vegetation plan for stream channel if applicable and stream buffer vegetation meeting the vegetative buffer standard in KZC 90.130;
- f. For an impacted stream buffer, propose mitigation at a minimum of 1:1 ratio depending on the location and functions of impacts and proposed mitigation, including consideration of vegetation structure, slope and flow paths;
- g. Demonstrate that flow and velocity of the stream after modification shall not be increased or decreased at the points where the stream enters and leaves the subject property, unless the change has been approved by the City to improve fish and wildlife habitat or to improve storm water management;
- h. Protective measures needed, such as siltation prevention measures and scheduling the construction activity to avoid interference with fisheries rearing and spawning activities;

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- i. Description of performance standards for post-installation, a monitoring and maintenance schedule along with a financial security estimate for the entire mitigation plan that meet the standards in KZC 90.160 and 90.165;
- j. For stream channel relocation or meandered stream, a survey of the new location of the stream;
- k. For stream channel relocation, meandered stream, a new or replacement stream crossing or culvert, demonstrate that the stream channel, or crossing or culvert can accommodate flow and velocity of 100-year storm events;
- l. For stream channel relocation, including for a meandering stream, prior to diverting water into a new stream channel, a qualified critical area professional approved by the City shall inspect the completed new channel and issue a written report to the City stating that the new stream channel complies with the requirements of this section prior to diverting the stream. ~~Cost-The applicant shall fund the cost~~ of the inspection ~~and~~, report, and peer review by the City shall be funded by the applicant;
- m. For stream crossings and culverts:
 - 1) Demonstrate that there is no other feasible alternative route for the crossing with less impact on the environment;
 - 2) Designed shall meet Washington State Department of Fish and Wildlife design standards for fish passage projects;
 - 3) For crossings over Type F streams, only bridge structures, bottomless culverts or other appropriate methods shall be used that provide fisheries protection and fish passage;
 - 4) For crossings for all other streams, bridge or bottomless culvert is preferred over traditional pipe-style culvert. Where culverts are applicable, single barrels shall be used;
 - 5) Roads and associated crossings shall be perpendicular to the stream to the maximum extent feasible;
- n. For changing the meandering course of the stream or relocating a stream, show that the design achieves:
 - 1) Creation of natural meander patterns;
 - 2) Formation of gentle and stable side slopes, no steeper than two (2) feet horizontal to one (1) foot vertical, and the installation of both temporary and permanent erosion-control features that includes native vegetation on stream banks. The steepness of the slope of the stream may be modified given existing conditions;
 - 3) Native vegetation normally associated with streams, emphasizing native plants with high food and cover value for fish and wildlife and approved by the City;
 - 4) Restoration of water flow characteristics compatible with fish habitat areas; and
- o. For changing the meandering of a stream course, see buffer reduction option in KZC 90.80.

78. Additional Requirements for Stream Modification

- a. All work shall be carried out under the direct supervision of a qualified critical area professional approved by the City and paid for by the applicant during all phases of the project;
- b. Work must be done during the summer low flow and timed to avoid stream disturbance during periods when use of the stream is critical to fish consistent with the Department of Fish and Wildlife construction window; if applicable;
- c. For stream crossings and culverts, record a perpetual maintenance agreement on a form approved by the City for continued maintenance of the stream crossing and culvert;

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- d. For changing the meandering of a stream course, a survey must be provided of the new stream course;
- e. If a proposed stream modification will result in the creation or expansion of a stream or its buffer on any adjacent property other than the subject property, a statement signed by the owners of all affected properties, in a form approved by the City Attorney, shall be submitted with the modification application and recorded in the King County Recorder's Office. The statement shall consent to the critical area and/or buffer creation or increase on the other property. Exempt from this provision is a meandering stream. See buffer reduction option in KZC 90.80; and
- f. Any required state and federal permits and authorizations shall be obtained prior to conducting site work.

(Ord. 4551 § 3, 2017)

90.75 Daylighting of Streams

1. Daylighting – The City encourages opening up a stream that is located in a culvert to restore the stream to a more natural and open condition. The purpose is to improve the values and functions of the stream, including maintaining water quality, reducing storm and flooding water flow, and providing wildlife habitat.
2. Process – The Planning Official may approve removal of a stream from a culvert based on a critical area report pursuant to KZC 90.110 and an approved stream daylighting plan prepared by a qualified critical area professional approved by the City.
3. Stream Daylighting Plan – The plan shall include the following:
 - a. Detailed site plan of existing improvements and utilities in relationship to the daylighting, topography, daylighted stream course, hydrologic flow before and after daylighting and where the daylighted stream will connect once the culvert is removed;
 - b. Demonstrate that the design achieves:
 - 1) Creation of natural meander patterns;
 - 2) Formation of gentle and stable side slopes, no steeper than two (2) feet horizontal to one (1) foot vertical, and the installation of both temporary and permanent erosion-control features that includes native vegetation on stream banks. The steepness of the slope of the stream may be modified given existing conditions;
 - 3) Native vegetation normally associated with streams, emphasizing native plants with high food and cover value for fish and wildlife and approved by the City;
 - 4) Restoration of water flow characteristics compatible with fish habitat areas; and
 - c. Prior to placing the stream into a new stream channel, a qualified critical area professional approved by the City shall inspect the completed new channel and issue a written report to the City stating that the new stream channel complies with the requirements of this section prior to daylighting the stream. Cost of the inspection and report shall be funded by the applicant. The applicant shall also fund the cost of peer review by the City if such review is deemed necessary by the Planning Official;
 - d. A survey of the daylighted stream;
 - e. Stream channel planting plan using appropriate native stream vegetation;
 - f. Vegetative buffer plan meeting KZC 90.130, except as permitted to be reduced pursuant to KZC 90.80; and
 - g. Any other information deemed necessary by the Planning Official. See requirements for stream modification plan pursuant to KZC 90.70.

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4. Requirement to Daylight a Stream – The City may require a stream to be daylighted as part of a Process IIA pursuant to Chapter 150 KZC or IIB permit pursuant to Chapter 152 KZC if the required daylighting is proportionate to the scope and nature of the Process IIA or IIB permit. Where stream daylighting is required, the applicant shall submit a plan as outlined in subsection (3) of this section.

(Ord. 4551 § 3, 2017)

90.80 Buffer Reduction for Meandering or Daylighting of Stream

1. On-Site Stream Buffer Reduction

a. A reduction to the required stream buffer standard may only be approved as part of approval for:

- 1) Changing the course to create a meandering stream if the modification improves instream habitat and flow conveyance; or
- 2) Daylighting a stream.

b. The buffer width reduction shall be the minimum necessary to accommodate existing and proposed improvements and/or site conditions; and

c. For any reduction in the buffer, the required vegetative standards in KZC 90.130 shall be increased proportionally to the extent feasible based on an appropriate planting density within the reduced buffer to mitigate the impact to the critical area.

2. Off-Site Stream Buffer Waiver

a. The buffer standard requirements for adjacent properties shall not increase due to the deliberate change in the meandering course of the stream or daylighting of a stream;

b. The City shall record the buffer waiver on the title of those affected properties with King County Recorder's Office. The City shall contact any affected property owners in writing to notify them of the buffer waiver notice and the applicable survey, and to determine if the property owner chooses to opt out having the notice and survey recorded on their property title;

c. The applicant shall pay for the fees to record the buffer waiver notice and the survey; and

d. There is no waiver to the existing buffer requirement prior to the change in the adjacent stream, or to any future change to the City's buffer standards.

(Ord. 4551 § 3, 2017)

90.85 Stream Channel Stabilization

1. When Permitted – Stream channel stabilization may be permitted if demonstrated to be necessary for the following:

a. Protecting existing legal structures and/or utilities that serve the structure(s), public facilities or improvements, unique natural resources determined by the City or where erosion results from the stream channel itself, rather than from unregulated storm water flows to its banks; or

b. Providing the only feasible vehicular access to a property.

2. Stabilization Measures Options

a. Measures including vegetation enhancement, upland drainage control, or protective walls or embankments placed outside of the stream and buffer shall be considered and utilized where feasible.

b. Soft-bank stabilization measures may only be used if it is demonstrated that the measures in subsection (2)(a) of this section are not a feasible alternative due to site-specific soil, geologic, and/or hydrologic conditions, or location of

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existing primary structures, utilities or public facilities. The soft-bank stabilization measures may include bank enhancement, anchor trees, gravel placement, stepped back rockeries, vegetative plantings and similar measures that use natural materials engineered to preserve functions and values of the stream.

c. Hard-bank stabilization measures may only be used if it is demonstrated first that the measures in subsections (2)(a) and (b) of this section are not feasible due to site-specific soil, geologic and/or hydrologic conditions. Hard-bank measures may include rock revetments, gabions, retaining walls, bulkheads and similar measures that present a vertical or nearly vertical interface with the water.

3. Process – ~~Any proposal for stream channel stabilization shall be reviewed and decided upon pursuant to a Process I, described in Chapter 145 KZC. The Planning Official may approve a stream stabilization based on the criteria in (4) below.~~

4. Decisional Criteria – ~~In addition to criteria of Process I,~~ The Planning Director Official shall only approve stream channel stabilization if:

- a. Mitigation sequencing found in KZC 90.145 has been met;
- b. There is a demonstrated risk to legal primary structures and/or utilities due to erosion or slope failure and that stabilization is necessary to prevent damage to these improvements;
- c. Stream channel stabilization plan will prevent stream bank erosion while minimizing impacts to the stream and the buffer; and
 - 1) For proposed hard-bank measures, show evidence that soft-bank measures cannot be used, consistent with subsection (2)(b) of this section;
 - 2) The ability of both permanent and temporary impacts to the stream can be mitigated.
- d. There will be no adverse impact to water quality;
- e. There will be no adverse impact to fish, wildlife, and their habitat;
- f. There will be no increase in the velocity of stream flow, unless approved by the City to improve fish habitat;
- g. There will be no decrease in flood storage volumes; and
- h. The installation of the stabilization measure will not lead to unstable earth conditions, create erosion hazards or contribute to scouring actions.

The stream channel stabilization plan, the additional requirements in subsection (7) of this section and any conditions of approval shall be conditions for all related land surface modification and/or building permit approvals.

5. Streambank Assessment – As part of the application for stream channel stabilization, the applicant shall submit a streambank assessment prepared by a qualified critical area professional approved by the City. The applicant shall also fund the City's peer review of the assessment. The assessment shall contain the following:

- a. The City's stream determination decision pursuant to KZC 90.105 and the critical area report pursuant to KZC 90.110, including the vegetative buffer assessment, and a survey of the stream and its buffer;
- b. Level and extent of risk to a primary structure and/or utilities due to erosion or slope failure and the ability of the proposed measure to mitigate that risk;
- c. Description of the proposed modification to the streambank;
- d. Analysis of mitigation sequencing in KZC 90.145;

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- e. Description of the proposed method to stabilize a streambank and why the method must be used. If soft or hard stabilization is proposed, justify its use;
 - f. Whether the level and extent of risk of damage from erosion is substantially more compared to the environmental impact of the proposed disturbance to the stream, including any continued impacts on functions and values over time;
 - g. Evaluation of the effects of the proposed stream channel stabilization on the functions and values of the stream and the buffer, including on water quality and fish habitat, and suitability of the proposed stabilization;
 - h. The ability of both permanent and temporary impacts to the stream and fish passage can be mitigated; and
 - i. Any other information or studies determined necessary by the Planning Official.
6. Stream Channel Stabilization Plan – The plan shall include the following:
- a. Detailed site plan and cross elevation of the stabilization measure in relationship to the stream, topography, soil conditions and existing improvements; and
 - b. Explanation on how the stream channel stabilization measure is consistent with Washington State Department of Fish and Wildlife’s guidelines on streambank protection;
7. Additional Requirements for Stream Channel Stabilization
- a. All work shall be carried out under the direct supervision of a qualified critical area professional approved by the City and paid for by the applicant during all phases of the project;
 - b. Work must be done during the summer low flow and timed to avoid stream disturbance during periods when use of the stream is critical to fish consistent with the Washington State Department of Fish and Wildlife construction window; if applicable; and
 - c. Any required state and federal permits and authorizations shall be obtained prior to conducting site work.

(Ord. 4551 § 3, 2017)

90.90 Minor Lakes – Totem Lake and Forbes Lake

The majority, if not the entirety, of the perimeters of Totem Lake and Forbes Lake are wetlands. All activities in the shallow areas of the lakes relating to contiguous wetlands located above the ~~high waterline~~ordinary high water mark are regulated pursuant to KZC 90.55 and 90.60.

Activities and uses waterward of the lakes’ perimeter wetlands and outside of the wetland shall be regulated as follows:

1. General Standards – As part of a permit or approval under this chapter, the City may require maintenance or rehabilitation of the lake as part of a project by removing material detrimental to the lake, such as inorganic debris, sediment, or nonnative vegetation. Rehabilitation is required when an existing condition is detrimental to water quality or habitat.
2. Moorage Facilities – Moorage facilities may be constructed, expanded or replaced using the process and meeting the standards below.
 - a. Process – Any proposal for a moorage facility shall be reviewed and decided upon pursuant to a Process I, described in Chapter 145 KZC.
 - b. Decision Criteria – A new, expanded or replaced moorage structure may be approved if the standards in subsection (2)(c) of this section are met.
 - c. Standards

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- 1) Moorage structure shall not extend farther than 25 feet waterward of the ordinary high water ~~line~~ mark;
 - 2) Only one (1) moorage structure may be located on a subject property;
 - 3) It is accessory to an allowed use on the subject property;
 - 4) Moorage structure associated with a dwelling unit shall be for the exclusive use of the residents and guests of the associated dwelling unit. Structures shall not be leased, rented or sold;
 - 5) Moorage structure shall not be treated with creosote or oil base or toxic substances;
 - 6) Any existing in-water structures abandoned or in disrepair must be removed as part of a new permit;
 - 7) A critical area determination shall be made pursuant to KZC 90.105 and a critical area report shall be prepared pursuant to KZC 90.110 to assess impacts to wetlands and streams and any wildlife habitat area due to construction and use of the moorage structures. If any impacts are identified, a mitigation plan shall be prepared and implemented pursuant to KZC 90.145 and 90.150; and
 - 8) For pedestrian access trails or boardwalks, see KZC 90.40.
3. Repair of Moorage Facilities – Moorage facilities may be repaired and maintained as an exempted activity pursuant to KZC 90.35, but they may not be reconstructed or expanded under repair and maintenance.
4. Viewing Platforms
- a. Public viewing platforms in a lake associated with a public park may be approved as part of a Park Master Plan process, pursuant to KZC 90.40(6).
 - b. If the platform would be located in a wetland, the final critical area determination and critical report is required pursuant to KZC 90.105 and 90.110, and mitigation is required pursuant to KZC 90.145 and 90.150.
 - c. The platform shall not be treated with creosote or oil base or toxic substances.
 - d. Private viewing platforms are not permitted.
5. Public Park – Construction of a park associated with a minor lake shall be reviewed through a Park Master Plan process, pursuant to KZC 90.40(6).

(Ord. 4551 § 3, 2017)

90.95 Fish and Wildlife Habitat Conservation Areas

1. Location of Fish and Wildlife Habitat Areas
 - a. Fish and wildlife habitat conservation areas can be found in or near critical areas, forested areas or Lake Washington.
 - b. Fish habitat is protected under the provisions of KZC 90.65, Streams and Associated Buffer Standards. Thus, the provisions in subsections (3) through (7) of this section do not apply to fish habitat.
2. Criteria – Fish and wildlife habitat conservation areas are those that meet one or more of the following species listed and habitat criteria:
 - a. State or federally designated endangered, threatened, and sensitive species that have a primary association with the habitat area.
 - b. State priority habitats and habitats with which State priority species have a primary association that are located in the City. Those in Kirkland are deemed to be Habitats and Species of Local Importance.

3. Wildlife Habitat Conservation Area Assessment – As part of a critical area report pursuant to KZC 90.110, a determination shall be made if a wildlife habitat conservation area exists on the subject property or near the property by a qualified critical area professional approved by the City with experience preparing reports for the relevant type of habitat. The assessment shall include the following information:

a. Evaluation – Evaluation of the presence or absence of potential wildlife habitat on the subject property or within the vicinity. A wildlife habitat assessment shall include the following information:

- 1) Identification of state priority species, or state or federally listed endangered, threatened or sensitive species that have a primary association with habitat on or in the vicinity of the property;
- 2) Extent of wildlife habitat areas, including acreage, and required buffers based on the species;
- 3) Vegetative, faunal, and hydrologic characteristics;
- 4) Evaluation of direct and indirect potential impacts on habitat by the project, including potential impacts to water quality; and
- 5) A discussion of any federal, state, or local special management recommendations, including Washington State Department of Fish and Wildlife habitat management recommendations that have been developed for the species or habitats.

b. Maps – The following maps shall be used in the evaluation:

- 1) Washington State Department of Fish and Wildlife priority habitat and species maps; and
- 2) Federal and state information and maps related to those species and habitat identified in subsection (2) of this section.

4. Process – Modification to wildlife habitat conservation areas shall be proposed as part of the required critical area approval under this chapter for a project.

5. Decisional Criteria – Modification to wildlife habitat conservation areas may only be approved if the following criteria are met:

a. Mitigation sequencing is met pursuant to KZC 90.145;

b. It can be demonstrated that required habitat areas can be protected through implementation of protection measures in accordance with a management plan; and

c. It can be demonstrated that the management plan and requirements in subsections (6) and (7) of this section can be met with the proposed project.

6. Wildlife Habitat Management Plan

a. A wildlife habitat management plan shall be prepared by a qualified critical area professional with experience preparing reports for the relevant type of habitat and approved by the City and based on recommendations from the Washington State Department of Fish and Wildlife;

b. The applicant shall fund the cost and implementation of the management plan, and also fund peer review by the City of the management plan;

c. The plan shall establish:

- 1) Seasonal restriction of construction activities as determined by the Washington State Department of Fish and Wildlife;

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- 2) Duration and timetable for periodic review of mitigation activities;
 - 3) Vegetative buffer widths that reflect the sensitivity of the habitat and the type and intensity of activity or use proposed to be conducted nearby. The buffer widths shall be consistent with the management recommendations issued by the Washington State Department of Fish and Wildlife and U.S Fish and Wildlife Services;
 - 4) Measures to provide appropriate wildlife corridor for the conservation of the species if a wetland scoring five (5) or greater is within 300 feet of the habitat area;
 - 5) Limitations on pesticide and herbicide use in conservation area; and
 - 6) Monitoring and maintenance program for the mitigating measures. The applicant shall fund the monitoring and maintenance program and also fund peer review by the City. Installation of vegetation shall follow the monitoring and maintenance schedule for a five-year program pursuant to KZC 90.160;
- d. Clustering of a development shall be considered in the plan if a project contains more than one (1) dwelling unit or building if it would provide less impact and/or greater protection of the conservation area; and
- e. Consultation with the Washington State Department of Fish and Wildlife, affected tribes or other appropriate agency regarding the effectiveness of any proposed mitigating measures shall occur if the Planning Official determines that it is needed.
7. Standard Requirements for Wildlife Habitat Conservation Area – Improvements, structures or activities located in or near wildlife habitat conservation areas shall meet the following standards:
- a. Preservation of critically important vegetation and/or habitat features, such as large trees, snags and downed wood;
 - b. Buffers shall consist of an undisturbed area of native vegetation or areas identified in a management plan for restoration to protect the integrity, functions, and values of the affected habitat;
 - c. Limitation of access to the wildlife habitat area, including fencing and signage, to deter unauthorized access;
 - d. Introduction of any plant or wildlife not indigenous to the region shall be prohibited unless authorized by a state or federal approval;
 - e. A performance, monitoring and maintenance security shall be submitted pursuant to KZC 90.165 to ensure completion and success of proposed mitigation; and
 - f. The management plan shall be implemented through the life of the use or activity.
8. Designation of Wildlife Habitats or Species of Local Importance – The City may designate additional habitat or species of local importance as an amendment to the definition in Chapter 5 KZC.

(Ord. 4551 § 3, 2017)

90.100 Frequently Flooded Areas

No disturbance or land surface modification may take place and no improvements or activities may be located in frequently flooded areas that are areas of special flood hazard, except as specifically provided in Chapter 21.56 KMC, Flood Damage Prevention. See Federal Emergency Management Agency (FEMA) for flood maps.

(Ord. 4551 § 3, 2017)

GENERAL STANDARDS**90.105 Critical Area Determination**

1. Initial Determination – Either prior to or during review of a development application, the Planning Official shall make an initial assessment based on a site inspection and other information as to whether:
 - a. A wetland is present on any portion of the subject property or surrounding area within 300 feet of the subject property. If a site inspection does not indicate the presence of a wetland on the subject property or within 300 feet of the subject property, no additional wetland assessment will be required.
 - b. If the initial determination indicates that a wetland exists or may exist on the subject property or within 300 feet of the subject property and/or a stream exists on the subject property or within 125 feet of the subject property, then the applicant shall have a critical area report prepared pursuant to KZC 90.110.
 - c. A stream is present on any portion of the subject property or surrounding area within 125 feet of the subject property. If a site inspection does not indicate a stream on or within 125 feet of the subject property, no additional stream assessment will be required.
 - d. If the Planning Official is not able to determine the classification of a stream or is uncertain if a watercourse is classified as a stream, a critical area report shall include a recommendation on a stream determination as to whether the site does contain a stream, and if so, its classification. If the critical area report determines that no stream exists on or within 125 feet of the subject property, no further assessment is needed.
2. Final Determination – The Planning Official shall make a final determination based on the critical area report. As part of the critical area determination, the Planning Official shall determine:
 - a. The critical area boundaries, wetland category and rating and/or stream classification;
 - b. The location of the buffer and buffer width standards for the critical area;
 - c. Whether the wetland or stream needs to be restored due to degraded vegetation, wildlife habitat, water quality and hydrologic functions, and if so, what measures are needed;
 - d. Whether the required buffer meets the vegetative standards found in KZC 90.130. If not, what changes need to be made to the buffer to meet the standard;
 - e. Whether the subject property contains or is within the vicinity of a known habitat for species that are federally or state listed pursuant to KZC 90.95; and
 - f. Whether the standard buffer width must be increased due to severe erosion area, fish and wildlife habitat conservation area or frequently flooded area on or adjacent to the subject property pursuant to KZC 90.125.
3. Development Review – The determination shall apply to any development permit application or request that would modify a site that includes a critical area or associated buffer, other than those exempted pursuant to KZC 90.35.
4. Validity of Determination – The critical area determination is valid for five (5) years from the date of the decision. However, the Planning Official may modify the final critical area determination whenever physical circumstances have markedly and demonstrably changed on the subject property or within 300 feet of the subject property for wetlands and 125 feet for streams because of natural processes or authorized human activity.

(Ord. 4551 § 3, 2017)

90.110 Critical Area Report

1. General – An application for a development permit that includes a critical area and/or its buffer, except those exempted pursuant to KZC 90.35, shall provide a critical area report that uses the best available science to evaluate the proposal and all probable impacts.

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2. Preparation of Report
 - a. The critical area report shall be prepared by a qualified critical area professional.
 - b. The applicant shall either:
 - 1) Fund a report prepared by the City or the City's consultant; or
 - 2) Submit a report prepared by a qualified critical area professional approved by the City. In addition, fund a peer review of the critical area report by the City or the City's consultant.
3. Report Format – The critical area report shall be provided in electronic form. The City may establish specific administrative requirements for the format of the report.
4. Report Content – General – A critical area report shall evaluate the subject property and critical areas within 300 feet of the subject property for wetlands and 125 feet for streams. A critical area report shall include the following information:
 - a. The name and contact information of the applicant; the name, qualifications, and contact information from the primary author(s) of the report;
 - b. Documentation of any fieldwork performed on the site, including field data sheets for wetland delineation and rating system forms, stream classification, baseline hydrologic data;
 - c. A description of the methodologies used to conduct the wetland delineations and rating system forms, stream classification if done as part of the critical area report, and impact analyses including references;
 - d. Identification, characterization and boundaries of all critical area, and buffers on or adjacent to the subject property. For areas off site of the subject property, estimated conditions within 300 feet of the subject property boundaries for a wetland and 125 feet of a stream using the best available information;
 - e. A vicinity map and a site plan of the property, drawn to scale, with existing improvements and site features, including significant trees;
 - f. Project narrative describing the proposal; anticipated temporary and permanent impacts to critical area or its buffer, construction activities and sequencing of construction, and other relevant information;
 - g. A description of existing native, ornamental or invasive vegetation, fauna, and hydrologic characteristics found in the critical area and its buffer both on-site and on adjacent properties;
 - h. An assessment of existing vegetation in the required buffer and whether it meets the vegetative buffer standards found in KZC 90.130(2) if the development threshold of KZC 90.130 is met. If the vegetation in the buffer does not meet the vegetative standards, ~~submit~~ a detailed preliminary revegetation plan meeting KZC 90.130(2) is required within the timeframe established in KZC 90.130.6. If revegetation of the buffer is part of a stream or wetland modification proposal (Section 90.60 or Section 90.70), a public agency exception (Section 90.45), daylighting of a stream (Section 90.75), meandering a stream (Section 90.80) or stream channel stabilization (Section 90.85), ~~the plan must be a detailed final re-vegetation plan must be submitted with those applications, a detailed final revegetation plan~~;
 - i. An assessment of whether the wetland or stream needs to be restored due to degraded vegetation, wildlife habitat, water quality and hydrologic functions, and if so, what measures are needed;
 - j. An assessment of whether the standard buffer width must be increased due to severe erosion area, fish and wildlife habitat conservation area or frequently flooded area on or adjacent to the subject property pursuant to KZC 90.125;

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- k. An assessment of any existing habitat for species that are federally or state listed or priority species, including species of local importance pursuant to KZC 90.95 on the subject property or in the vicinity;
 - l. A professional survey as specified in subsection (7) of this section;
 - m. A statement specifying the accuracy of the report and all assumptions made and relied upon; and
 - n. Any other information deemed necessary by the Planning Official.
5. Additional Report Content – Wetlands – In addition to the requirements for the general report content pursuant to subsection (4) of this section, the critical area report shall include:
- a. Identification of wetlands and delineation of their boundaries in accordance with the current approved federal delineation manual and applicable regional supplements described in WAC 173-22-035, as amended. All determinations and delineations of wetlands shall be based on the entire extent of the wetland, irrespective of property lines, ownership patterns, existing improvements or features;
 - b. Wetland rating and category including the rationale for the proposed rating and the required buffer based on the regulations in this code;
 - c. A completed Army Corps of Engineers Wetland Field Data Form;
 - d. Existing wetland acreage that may be approximated if the wetland extends onto adjacent properties;
 - e. Soil and substrate conditions;
 - f. A description of historical hydrologic, vegetative, habitat, topographic, and soil modifications, if any; and
 - g. Description of the water sources entering and leaving the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year – drift lines, algal layers, water marks, and sediment deposits).
6. Additional Report Content – Streams – In addition to the requirements for the general report content pursuant to subsection (4) of this section, the critical area report shall include the stream classification and rationale, based on WAC 222-16-030, as amended. Best available information shall be used to determine if fish are present in the stream given known fish barriers and other conditions.
7. Professional Survey and Measuring Buffer Boundary
- a. The survey shall be based on the King County Datum (NAVD 88 vertical, NAD 83/91 horizontal) and shall indicate the temporary or permanent benchmark used in the survey depicting:
 - 1) The approved delineation marking of a wetland and/or buffer boundary on the subject property and an estimate of the location of off-site wetlands and buffers within 300 feet of the subject property, based on the determined wetland category and rating, and the buffer standards in this chapter; and/or
 - 2) The ordinary high water mark (OHWM) of any stream or the opening of a pipe where any stream enters or exits a pipe and/or any buffer surveyed on the subject property and an estimate of the location of any off-site stream and buffer within 125 feet of the subject property based on the stream classification determination and the buffer standards in this chapter.
 - b. For wetlands, buffer widths shall be measured along the outer edge of the entire wetland.
 - c. For streams, buffer widths shall be measured outward in each direction on the horizontal plane from the OHWM or from the top of the bank if the OHWM cannot be identified (see Chapter 180 KZC, Plate 16). Where a stream enters or exits a pipe, the buffer shall be measured perpendicular at the pipe opening (see Chapter 180 KZC, Plate 16A).

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8. Site and Construction Plans – For a site proposed to be developed, the critical area report shall include general plans showing the following:
- a. Site plan-view cross-sectional drawings;
 - b. Slope gradients, and existing and final grade elevations at two-foot intervals;
 - c. The type and extent of all critical areas and buffers on the subject property and an estimate of any off-site critical areas and buffer within 300 feet of any wetland and 125 feet of any stream measured from the subject property;
 - d. An approximate location of springs, steeps, surface water runoff features, or other surface expressions of groundwater on or within 300 feet of a wetland and 125 feet of a stream from the subject property;
 - e. Proposed development, including the location of existing and proposed structures, fill, grading clearing limits with dimensions indicating distances to the critical area, areas of proposed impacts to the critical areas and/or buffers (include square footage estimates), and storage of construction materials and equipment if available;
 - f. A depiction of the proposed storm water management facility and outlets for the project, including estimated areas of permanent and temporary intrusion into the critical area buffer;
 - g. Other drawings to demonstrate construction techniques; and
 - h. Any other information deemed necessary by the Planning Official.
9. Waiver – The Planning Official may waive the requirement of certain information for the report if it is determined that:
- a. The information is not needed to evaluate a critical area or requirement of this chapter; or
 - b. If the development proposal will affect only a part of the subject property, the Planning Official may limit the scope of the required report to include only that part of the site that would be affected by the development.

(Ord. 4551 § 3, 2017)

90.115 Buffer Averaging

1. Applicability – Buffer averaging may be applied to wetland and stream buffers. Both the standard buffer and the alternative buffer may use buffer averaging pursuant to this section.
2. Standards – Averaging of buffer widths for either the standard buffer or alternative buffer may only be allowed if all of the following criteria are met as demonstrated in a critical area report:
 - a. The applicable standard buffer or alternative buffer width is not reduced below 75 percent of the required width in any location;
 - b. The total area contained in the buffer area after averaging is no less than that which would be contained within the applicable standard buffer or alternative buffer and must be contiguous to the buffer;
 - c. Buffer averaging will provide additional protection to the critical area and result in a net improvement of the critical area habitat, functions, and values; and
 - d. The critical area contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland or stream would benefit from a wider buffer in one area and would not be adversely impacted by a narrower buffer in another area.
3. Process – The Planning Official makes the decision based on the standards of subsection (2) of this section and review of the critical area report described in KZC 90.110.

90.120 Limited Buffer Waivers**1. Interrupted Buffer Waiver**

a. The Planning Official may waive the required critical area buffer in that portion of the buffer isolated from the critical area where an existing legally established and improved public right-of-way or improved easement road interrupts a portion of the critical area buffer from the portion of the buffer adjacent to the critical area. The Planning Official may require a critical area report be prepared to address the criteria in subsection (1)(d) of this section.

b. The Planning Official may waive the required critical area buffer in that portion of the buffer isolated from the critical area where an existing legally established building, detached garage, accessory dwelling unit, driveway, commercial parking area or retaining wall over six (6) feet in height divides a portion of the critical area buffer from the portion of the buffer adjacent to the critical area. For the buffer waiver to be approved, the applicant must demonstrate conclusively in a critical area report that all of the criteria in subsection (1)(d) of this section are met.

c. A waiver may not be requested for such improvements as fences, sheds, patios, decks or other minor structures and impervious surfaces.

d. The Planning Official may waive the buffer requirement if the waiver request is found to meet the following criteria (see Chapter 180 KZC, Plate 25):

- 1) The existing legal improvement creates a substantial barrier to the buffer function;
- 2) The interrupted buffer does not provide additional protection of the critical area from the proposed development; and
- 3) The interrupted buffer does not provide significant hydrological, water quality and wildlife buffer functions relating to the portion of the buffer adjacent to the critical area.

e. If the applicant's consultant prepares the critical area report, the applicant shall also fund peer review of the report by the City's consultant.

2. Type F Stream Limited Buffer Waiver

a. The Planning Official may partially waive the required buffer for a Type F stream if the stream, while meeting the definition of Type F, does not currently support fish use due to the presence of a substantial downstream barrier and fish habitat in the subject area could not reasonably be recovered by restoration or management. The Planning Official shall require a critical area report be prepared to address the criteria in subsection (2)(c) of this section.

b. If, based on analysis of the criteria in 2(c) the Planning Official approves a waiver of the Type F stream buffer, a Type N stream buffer shall apply to the stream within the subject area.

c. The Planning Official may waive the Type F buffer requirement if the waiver request is found to meet the following criteria:

1) The Type F stream otherwise meets the WAC 222-16-030 definition of Type F but does not currently support fish use due to the presence of a substantial downstream barrier(s) and fish habitat in the subject area could not reasonably be recovered by restoration or management as determined by an analysis of the following characteristics:

a) Length or condition of downstream barrier(s);

b) Infrastructure above and adjacent to downstream barrier;

c) Average gradient of barrier;

d) Area and quality of potential fish habitat upstream of barrier.

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d. If the applicant's consultant prepares the critical area report, the applicant shall also fund peer review of the report by the City's consultant.

e. The Planning Official may apply the limited buffer waiver to other properties along the same stream reach in the immediate vicinity of a prior determination where the same conditions exist. In such cases, the Planning Official may waive the required application and reports.

(Ord. 4551 § 3, 2017)

90.125 Increase in Buffer Width Standard

1. Criteria to Require Increase in Buffer Width – The City shall determine if a critical area buffer must be increased beyond the standards in this chapter based on best available science and the recommendation of a critical area report for a project. The increase in buffer width may be required when a larger buffer is necessary to protect critical area functions and values either on the subject property or on an adjacent property. This determination shall be based on one or more of the following criteria:

a. Severe Erosion Areas – If the critical area buffer abuts land that contains a slope with severe erosion, has minimal vegetative cover and is designated as hazardous in Chapter 85 KZC, and erosion control measures will not effectively prevent adverse impacts on the critical area based on a geotechnical study, a larger buffer shall be required;

b. Fish and Wildlife Habitat Conservation Areas – If the wetland or stream contains documented habitat for state or federally listed endangered, threatened, and sensitive species or state priority species, including species of local importance, a larger buffer may be required to protect the habitat consistent with the management recommendations issued by the Washington State Department of Fish and Wildlife or the United States Fish and Wildlife Services; or

c. Frequently Flooded Areas – If a site contains a frequently flooded area and the frequently flooded area is wider than the buffer standard required for a wetland or stream, the buffer shall be increased to incorporate the entire frequently flooded area.

2. Process – The Planning Official shall make a determination if a buffer width must be increased beyond the standard buffer width based on the critical area report as part of the final critical area determination in KZC 90.105.

(Ord. 4551 § 3, 2017)

90.130 Vegetative Buffer Standards

1. General – The entire wetland buffer width of KZC 90.55 and stream buffer width of KZC 90.65, referred hereafter as the “buffer,” shall be vegetated pursuant to the requirements of this section.

2. Vegetative Buffer Standard – The following vegetative buffer standards shall be met:

a. Native cover of at least 80 percent on average throughout the buffer area. Additionally, the first two of the following strata of native plant species each must compose of at least 20 percent areal cover, and the third may compose no more than 20 percent areal cover:

- 1) Multi-age forest canopy (combination of existing and new vegetation);
- 2) Shrubs; and
- 3) Woody groundcover (such as kinnikinnick, salal and sword fern) or unmowed herbaceous groundcover;

b. At least three (3) native species each making up a minimum of 10 percent coverage (for diversity);

c. Less than 10 percent noxious weeds cover using King County weed list and permanent removal of all knotweed; and

d. Removal of lawn and any illegal fill as determined by the City.

3. When Vegetative Buffer Standard Applies

a. The complete vegetative buffer standard shall be installed either when:

- 1) The total new net impervious area and pervious pavement/pavers on the entire subject property exceeds 1,000 square feet, or
- 2) The cost of new or replacement improvements exceeds 50 percent of the assessed or appraised value of the existing improvements on the entire subject property, whichever is greater. This 50 percent threshold shall not apply to detached dwelling units approved for expansion pursuant to KZC 90.185.

b. A partial vegetative buffer shall be installed when:

- 1) The total new net impervious area and pervious pavement/pavers is between 50 square feet and 1,000 square feet on the subject property.
 - a) The buffer shall be vegetated at a minimum 1:1 ratio (new net impervious area is equal to the total square feet of buffer vegetation) meeting the vegetated buffer standard at the proportional rate of the standard;
 - b) If the new net impervious area results in removal of a significant tree in a buffer, the tree shall be replaced with two (2) native trees in the buffer. The replacement trees shall be six (6) feet tall for a conifer and two-inch caliper for deciduous or broadleaf. For a removed significant tree in a buffer that is 24 inches in diameter, the tree shall be replaced with three (3) native trees;
 - c) The vegetated buffer area shall be located in the buffer abutting or nearest to the critical area at a minimum width of 10 feet;
 - d) The location of the vegetation in the buffer shall be across from the new structure footprint and approved by the Planning Official;
- 2) When a new net impervious surface on the subject property totals less than 50 square feet, no vegetation is required to be planted in the buffer; and
- 3) For new utility poles the buffer shall be calculated based on the combined area of all new utility pole footprints and be vegetated at a minimum 1:1 ratio (net new impervious area equals total square feet of buffer vegetation), meeting the vegetated buffer standard at a proportional rate.

c. For permitted activities, improvements and uses subject to development standards pursuant to KZC 90.40, vegetative buffer requirements will be determined as part of mitigation sequencing.

d. For nonconformances, see KZC 90.185.

4. Additional Standards

a. All existing improvements and structures in a buffer must be removed when the vegetative buffer installation is required pursuant to subsection (3)(a) of this section;

b. All activities in the buffer must cease, except those permitted under KZC 90.35(12) and (13);

c. Native vegetation appropriate for wetlands and streams shall be used based on the City's Critical Areas Plant List. Other vegetation may be proposed if appropriate for the site and approved by the City;

d. Trees and shrubs in the buffer shall be located along the bank of streams to provide effective shading of the stream to lower water temperature;

e. Existing healthy native vegetation may count towards meeting the requirements if the overall standard is met;

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- f. The City may require amended soil if needed to provide a well-functioning buffer;
 - g. The City may require supplemental mulch to meet the Planning and Building Department standards;
 - h. A reliable temporary irrigation source must be available while the vegetation is being established and the source must be indicated on the planting plan;
 - i. Installation shall be done by hand unless use of mechanical equipment is specifically authorized due to site conditions. By hand includes any handheld equipment that is gas or electric powered;
 - j. A perpetual landscape maintenance agreement, in a form approved by the City, shall be recorded over the vegetated buffer prior to final inspection; and
 - k. Buffers shall not be mowed and animals may not be used to remove weeds, except goats may be used to remove invasive species for only public restoration projects pursuant to KZC 90.35 and 90.40.
5. Process – The Planning Official shall determine whether an existing buffer meets the standards in subsection (2) of this section as part of the final critical area determination based on information in the critical area report.
6. Submittal of Vegetative Buffer Plan – Timing and Contents
- a. When an existing buffer does not meet the standards in subsection (2) of this section, the applicant shall submit a ~~final~~ vegetative buffer plan with the development permit application;
 - b. The vegetative buffer plan shall be prepared by a qualified critical area professional. The applicant shall also submit funds to the City for peer review of the vegetative buffer plan;
 - c. The Planning Official shall approve the plan only if it meets the vegetative buffer standard in this section; and
 - d. If a modification is proposed to a wetland or stream ~~pursuant to (KZC 90.60 or 90.70), a public agency exception (Section 90.45), daylighting of a stream (Section 90.75), meandering a stream (Section 90.80) or stream channel stabilization (Section 90.85), then~~ a detailed ~~final~~ planting plan shall be submitted with the ~~wetland or stream modification plan development permit application.~~
7. Maintenance, Monitoring and Financial Security – A maintenance and monitoring program pursuant to KZC 90.160 ~~and a financial security pursuant to KZC 90.165 for the vegetative buffer shall be submitted with the building or land surface modification permit application. The financial security pursuant to KZC 90.165 for the vegetative buffer shall be submitted prior to issuance of a building or land surface modification permit or before commencement of an activity.~~ ~~The activity. The maintenance/monitoring program shall be prepared by a qualified critical area professional. The applicant shall fund the cost of peer review by the City.~~
8. Protection and Maintenance of Vegetative Buffer – Critical areas and buffers shall be placed in recorded critical area easements or tracts pursuant to KZC 90.210 and shall be maintained in perpetuity.

(Ord. 4551 § 3, 2017)

90.135 Trees in Critical Areas and Critical Area Buffer

1. Removal of Trees
 - a. Other than as specifically approved as part of a critical area approval under this chapter, no trees shall be removed from a critical area of critical area buffer unless determined to be nuisance or hazardous trees. Any removal shall be authorized in advance through a tree removal permit pursuant to Chapter 95 KZC unless tree removal is an emergency to prevent immediate damage to a structure. In case of an emergency, documentation to the City must be provided within seven (7) days of removal that supports that the tree was a nuisance or hazardous;
 - b. If a tree in a critical area or its buffer meets the criteria of a nuisance or hazard based on this code at the determination of the Planning Official, then a snag tree shall be created;

c. If creation of a snag is not feasible, then the felled tree shall be left in place unless the Planning Official approves tree removal in writing; and

d. Any tree approved to be removed or created as a snag or felled must be replaced with one (1) to three (3) native trees at a minimum height of six (6) feet in the buffer depending on the size, quality and species of removed tree. The Planning Official shall determine the required number of replacement trees.

2. Pruning of Trees – Pruning or topping of trees in critical areas or buffers is prohibited other than City approved creation of snags for nuisance or hazard trees.

(Ord. 4551 § 3, 2017)

90.140 Structure Setback from Critical Area Buffer

1. Buildings and other structures shall be set back at least 10 feet from the edge of the wetland or stream buffer to ensure adequate width for construction staging, maintenance and repair of primary buildings and accessory structures, and use of improvements without disturbing the critical area buffer or critical area. This section does not apply to:

a. Category IV wetlands that are less than 1,000 square feet that do not have a buffer requirement and thus no building setback requirement.

b. Those linear utility improvements associated with either permitted activities, improvements or uses or public agency and utility exceptions that have been approved to be located in a critical area or buffer and therefore can traverse the structure setback.

2. The following improvements may extend into the structure setback; provided, that they do not necessitate encroachment into the critical area buffer for construction, maintenance and use. No other improvements are permitted.

Table 90.140.1 Structure Setback from Critical Area Buffers

Structure Setback	Improvement	Location within Setback:
10 feet in width from edge of buffer	Chimneys, bay windows, greenhouse windows, eaves, cornices, awnings and canopies, and decks above the ground floor	May extend no more than 18 inches into structure setback
	Uncovered improvements less than 18 inches above finished grade to 4 inches above finished grade, such as ground floor decks, and railings less than 4 feet above finished grade	May extend no more than 5 feet into structure setback
	Uncovered play structures	
	Rockerries and retaining walls that are not more than 4 feet above finished grade	
	Uncovered improvements less than 4 inches above finished grade, such as patios, driveways and parking areas, including curbing	May extend no more than 9 feet into structure setback
Garden sculpture, light fixtures, trellises and similar decorative structures		

Structure Setback	Improvement	Location within Setback:
	Benches, walkways, paths and pedestrian bridges	
	Bio-retention, such as rain gardens, and dispersion techniques that result in sheet flow such as level spreaders, dispersion trenches, splash blocks and similar techniques	
	Fence perpendicular to the structure setback at up to 6 feet in height above finished grade	May extend to the upland edge of the critical area buffer
	Split rail, open slatted with at least 18" spacing, wrought iron and chain link, or similar nonsolid fence parallel to the structure setback up to 6 feet in height above finished grade. Solid fencing is not permitted. Except for split rail, a gate is required for access to the buffer.	Along the entire upland edge of the buffer

(Ord. 4551 § 3, 2017)

90.145 Mitigation – General

1. General – If a modification is proposed to a critical area or buffer, as part of the application the applicant must have the proposal evaluated using mitigation sequencing and then submit a mitigation plan that addresses the impacts to the critical area.

2. Mitigation Sequencing – The intent of mitigation sequencing is to evaluate and implement opportunities to avoid, minimize, eliminate or compensate for impacts to critical areas while still meeting the objectives of the project. When a modification to a critical area and buffer is proposed, the modification shall be avoided, minimized, or compensated for, as outlined by WAC 197-11-768, in the following order of preference:

- a. Avoiding the impact altogether by not taking a certain action or parts of actions;
- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- e. Compensating for the impact by replacing or providing substitute resources or environments; and/or
- f. Monitoring the impacts and compensation projects and taking appropriate corrective measures.

3. Location of Mitigation

a. Preference – Preference shall be given to the location of the mitigation in the following order unless it can be demonstrated that off-site in-kind mitigation is ecologically preferable:

- 1) On-site in-kind;
- 2) Off-site in City in-kind;
- 3) Off-site in-kind within the Lake Washington/Cedar/Sammamish Watershed.

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b. On-Site versus Off-Site Mitigation

1) Mitigation shall occur on-site except when the City determines that the following criteria have been met as part of a proposal under this chapter:

- a) There is no opportunity for on-site mitigation or on-site opportunities do not have a high likelihood of success due to the size of the property, site constraints, or size and quality of the wetland or location and quality of the stream;
- b) Off-site mitigation has a greater likelihood of providing equal or improved critical area functions than the impacted critical area;
- c) Off-site locations shall be in the same Water Resource Inventory Area (WRIA) 8 Lake Washington/Cedar/Sammamish Watershed as the impacted critical area; and
- d) The off-site critical area mitigation will best meet formally established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions that have been established and strongly justify location of mitigation at another site.

2) When considering mitigation outside of the City, preference should be given to using mitigation banking or an in-lieu fee program pursuant to subsection (4) of this section.

4. Responsible Party for Mitigation Site – Mitigation for lost or diminished critical area functions and values for either wetlands or streams shall use the following options:

a. Applicant-Responsible Mitigation – The applicant is responsible for the implementation, monitoring and success of the mitigation pursuant to this chapter.

b. Non-Applicant Responsible Mitigation – Mitigation Bank and In-Lieu Fee Mitigation

1) Funds are collected from the applicant by the sponsoring agency, nonprofit, private party or jurisdiction. The sponsor is responsible from that point forward for the completion and success of the mitigation. The applicant's fee is based on the project impact and includes all costs for the mitigation, including design, land acquisition, materials, construction, administration, monitoring, and stewardship.

2) Credits purchased by an applicant from a mitigation bank or in-lieu program that is certified under federal and state rules may be used as a method of mitigation if approved by the City to compensate for impacts when all of the following apply:

- a) The City determines as part of the critical area approval that it would provide appropriate compensation for the proposed impacts;
- b) Projects shall have debits associated with the proposed impacts calculated by the applicant's qualified critical area professional using the credit assessment method or appropriate method for the impact as specified in the approved instrument for the program. The assessment shall be reviewed and approved by the City;
- c) The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank or in-lieu fee program instrument; and
- d) The record of payment for credits shall be provided to the City in advance of the authorized impacts but no later than issuance of the building or land surface modification permit.

c. City-Responsible Mitigation – Advance Mitigation – The City does mitigation on City-owned property as mitigation credit either for City critical area projects or at the discretion of the City for other public agencies with critical area projects. The mitigation program shall be implemented pursuant to federal and state rules, and state water quality regulations.

5. Timing of Mitigation

a. On-Site Mitigation

- 1) On-site mitigation shall be completed immediately before or following disturbance and prior to use or final inspection of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife and flora; and
- 2) The Planning Official may allow flexibility with respect to seasonal timing of excavation or planting for mitigation. If on-site mitigation must be completed after final inspection of a building or land surface modification permit or commencement of an activity, a performance financial security shall be required pursuant to KZC 90.165 along with a timeline commitment for completion.

b. Off-Site Mitigation

- 1) For in-lieu fee, mitigation bank or advance mitigation programs:
 - a) Mitigation shall be completed based on the program's established timeline, except advance mitigation shall be completed prior to issuance of the development permit;
 - b) The applicant shall provide documentation of the proof of purchase of credits for in-lieu fee and mitigation banking in advance of the authorized impacts but no later than issuance of the building or land surface modification permit. However, if the program sponsor requires proof of development permit prior to credit purchase, the documentation may be provided to the City prior to final inspection; and
 - c) For advanced mitigation, the applicant shall submit documentation of completion of the advance mitigation prior to issuance of a land surface modification or building permit.
- 2) For all other off-site mitigation:
 - a) Mitigation shall be completed immediately before or following disturbance and prior to use or final inspection of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife and flora. The Planning Official may allow flexibility with respect to seasonal timing of excavation or planting for mitigation; and
 - b) Documentation of the proof of purchase of off-site property shall be provided in advance of the authorized impacts but no later than issuance of the building or land surface modification permit.

6. Mitigation Plan Standards – All critical area mitigation plans, except mitigation met through mitigation bank or an in-lieu fee program, shall meet the following standards. In addition, for wetlands the standards for wetland compensatory mitigation pursuant to KZC 90.150 shall be followed.

a. A mitigation plan shall be prepared by a qualified critical area professional, approved by the City that:

- 1) Addresses the impacts to a critical area and buffer based on best available science;
- 2) Is designed to maintain and enhance ecological functions and values, and to prevent risk from hazards posed to the critical area; and
- 3) Provides a description of the mitigation site, including location and vicinity map, and rationale for selection of the mitigation site.

b. The plan shall show that:

- 1) The vegetative buffer standards and requirements in KZC 90.130 are met. If the buffer does not currently meet the vegetative buffer standards, a detailed final revegetation plan shall be submitted

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including specification on size and type of each native species of plants, and number and spacing of the plants meeting the City of Kirkland’s Critical Area Plant List and standards;

- 2) Seed source must be as local as possible, and plants must be nursery propagated unless transplanted from on-site areas approved for disturbance. These requirements must be included in the mitigation plan specifications;
- 3) Plant materials may be supported with material (e.g., stakes, guy wires) only when necessary. Staking and ties shall follow the International Society of Arboriculture standards. Where support is necessary, stakes, guy wires, or other measures must be removed as soon as the plant can support itself, usually after the first growing season;
- 4) The stream buffer mitigation area replacement at a minimum ratio of 1:1 pursuant to KZC 90.65 is met;
- 5) Proposed erosion control measures comply with the City’s Public Works Pre-Approved Plans;
- 6) Mitigation is consistent with other requirements in this code, including sight distance requirements at intersection pursuant to Chapter 115 KZC; and
- 7) All planted areas of the mitigation project have a temporary, above ground sprinkler system set to automatic timers. Temporary sprinkler systems shall be removed in the final year of monitoring once vegetation is well established. When public or private water is not available, a plan for reliable watering by truck or hand shall be included.

(Ord. 4551 § 3, 2017)

90.150 Wetland Compensatory Mitigation

1. General – Compensatory mitigation for modifications to wetlands and related impacts to buffers shall be used for impacts that cannot be avoided or minimized and shall achieve equivalent or greater wetland functions. Approved modifications to a wetland and related impacts to the buffer require compensatory mitigation based on mitigation ratios in subsection (2) of this section so that the goal of no net loss of wetland functions and values is achieved.

2. Compensatory Wetland Mitigation Ratios

a. Acreage Replacement Ratios – The following ratios shall apply to creation, re-establishment, rehabilitation, and enhancement of wetlands. These ratios do not apply to the use of credits from a state-certified wetland mitigation bank or in-lieu fee program pursuant to KZC 90.145(4). The first ratio number specifies the acreage of replacement wetlands and the second number specifies the acreage of wetlands altered.

Table 90.150.1 Mitigation Ratios for Wetlands and Buffers

Category of Wetland Impacted	Creation	Re-establishment – Rehabilitation Only	Creation and Rehabilitation	Creation and Enhancement	Enhancement Only
Category IV	1.5:1	3:1	1:1 C and 1:1 RH	1:1 C and 2:1 E	6:1
Category III	2:1	4:1	1:1 C and 2:1 RH	1:1 C and 4:1 E	8:1
Category II	3:1	6:1	1:1 C and 4:1 RH	1:1 C and 8:1 E	12:1
Category I: Forested	6:1	12:1	1:1 C and 10:1 RH	1:1 C and 20:1 E	24:1
Category I: Based on Total Functions	4:1	8:1	1:1 C and 6:1 RH	1:1 C and 12:1 E	16:1
Category – I: Bog	Not possible	6:1 RH of a bog 8:1	Not possible	Not possible	Case-by-case

Category of Wetland Impacted	Creation	Re-establishment – Rehabilitation Only	Creation and Rehabilitation	Creation and Enhancement	Enhancement Only
Buffer (see additional requirements in subsection (2)(c) and 7 of this section)	Minimum of 1:1	Minimum of 1:1	Minimum of 1:1	Minimum of 1:1	Minimum of 1:1

Legend: C = Creation, RH = Rehabilitation, E = Enhancement

b. Remedial Action – Remedial actions resulting from unauthorized alterations of a wetland or its buffer may require greater ratios depending on the extent of impact to the value and function of the wetland based on an analysis by a critical area professional and a final determination by the Planning Official.

c. Buffer Enhancement Ratio – The City may require a buffer enhancement ratio of greater than 1:1 for exceptional second growth forest or mitigation of an already functioning buffer based on the critical area report, buffer modification or consideration of vegetation structure slope and flow paths.

d. Credit/Debit Method – As an alternative to the mitigation ratios, the City may allow mitigation based on the “credit/debit” method developed by the Department of Ecology. This method may be appropriate where a wetland is not eliminated, but is otherwise modified.

3. Mitigation for Lost Values and Affected Functions – Compensating for lost values and affected functions must be addressed in the compensatory mitigation plan of subsection (5) of this section to achieve functional equivalency or improvement. The goal and preference shall be for the compensatory mitigation to provide in-kind wetland functions for those lost, except when:

a. The filled/impacted wetland provides minimal functions as determined by a site-specific function assessment, and the proposed mitigation action(s) will provide equal or greater functions or will provide functions shown to be limited within Kirkland’s watershed; or

b. Out-of-kind replacement will best meet formally identified Water Resource Inventory Area (WRIA) 8 Lake Washington/Cedar/Sammamish Watershed goals, such as replacement of historically diminished wetland types.

4. Preference of Compensation

a. Compensation shall occur in the following order of preference based on in-kind mitigation:

- 1) Restoring wetlands on upland sites that were formerly wetlands. This action includes reestablishment and rehabilitation;
- 2) Creating/establishing wetlands on disturbed upland sites, such as those with vegetative cover consisting primarily of nonnative species;
- 3) Enhancing significantly degraded wetlands; or
- 4) Preserving/maintaining a wetland to remove threat or prevent decline, such as purchasing land. Preservation does not result in gain of wetland acres.

b. Location of compensatory mitigation shall occur in the order of preference established in KZC 90.145(3).

5. Compensatory Mitigation Plan – A compensatory mitigation plan shall be prepared by a qualified critical area professional approved by the City consistent with state guidelines and submitted with the wetland modification assessment of KZC 90.60 for approval as part of the critical area permit using Process I. The plan shall contain the following:

- a. A topographic survey showing existing and proposed topography and improvements. Surveys should be of sufficient quality to determine accurate one-foot minimum contour intervals;
 - b. Description of the compensatory mitigation site, including location and vicinity map, rationale for selection of site and how it meets the required mitigation ratios of subsection (2) of this section;
 - c. Description of proposed actions for compensation of wetland and buffer areas affected by the project, overall goals and targets of the proposed mitigation plan, and proposed mitigation timing. Documentation if the compensatory mitigation will be done through a mitigation banking or fee-in-lieu program pursuant to KZC 90.145;
 - d. Protective construction measures that are necessary, such as siltation prevention measures and scheduling the construction activity to avoid interference with wildlife nesting activities;
 - e. Description of surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created or restored compensatory mitigation areas;
 - f. Schedule of the project for all work;
 - g. Description of performance standards for post-installation, a monitoring and maintenance schedule based on the time period required in KZC 90.160 along with a financial security estimate for the entire compensatory mitigation project that meet the standards in KZC 90.165;
 - h. Proof of title ownership for the wetlands and buffers, including the compensatory mitigation areas, when mitigation is done by the applicant;
 - i. If the applicant does not hold title ownership to the applicant-responsible mitigation site, proof of perpetual right to locate the mitigation shall be provided; and
 - j. List of all local, state and/or federal wetland-related permits required for the project.
6. Timing of Compensatory Mitigation – See KZC 90.145(5) for when an applicant must install the compensatory mitigation or document if a nonapplicant responsible mitigation program is used to meet the mitigation requirement.

(Ord. 4551 § 3, 2017)

90.155 Measures to Minimize Impacts to Wetlands

The following measures must be incorporated into the design of a site containing a wetland and/or buffer. The Planning Official shall determine the applicability of each measure based on the uses, improvements and/or activities on the subject property.

Table 90.155.1 Measures to Minimize Impact to Wetlands and Associated Buffers

Disturbance	Required Measures to Minimize Impacts	
Lights	–	Shield exterior lights that face the wetland or buffer so that they are downcast and directed away from critical area and associated buffer pursuant to Chapter 115 KZC.
Noise	–	Activities that generate noise, such as parking lots, drive-thru facilities, generators and HVAC units shall be located away from the wetland or buffer to the maximum extent possible, or noise shall be minimized through use of design measures, insulation techniques and/or additional native vegetation. Activities or uses that generate relatively continuous, potentially disruptive exterior noise, such as certain industrial, manufacturing and repair services shall

Disturbance	Required Measures to Minimize Impacts	
		provide an additional 10 feet in width of heavily vegetated buffer strip immediately adjacent to the outer wetland buffer that meets KZC 95.42, Buffer Standard 1.
Toxic runoff	– – –	Treat all runoff from pollution generating surfaces prior to discharge to the wetlands. Establish covenants for homeowner’s associations and commercial developments where applicable for restriction of pesticide use within 150 feet of wetland. Apply integrated pesticides management pursuant to KZC 90.195.
Storm water runoff	– – –	As part of redevelopment, replacement or expansion of an existing development, retrofit storm water flow control and treatment for public streets when the value of all improvements, including interior improvements exceed 50% of the assessed value (or replacement value) of the existing site improvements. Control storm water flow and improve water quality from new and redevelopment, including to wetlands, through the requirements of the Western Washington Phase II Municipal Stormwater Permit, National Pollutant Discharge Elimination System (NPDES), administered by the Washington State Department of Ecology. Use low impact development techniques per the City’s standards.
Pets and human disturbance	– –	Install fence and signage pursuant to KZC 90.190 along the edge of the buffer. Place wetland and buffer in a separate conservation easement or tract pursuant to KZC 90.210.
Dust	–	Use best management practices to control dust.

(Ord. 4551 § 3, 2017)

90.160 Monitoring and Maintenance

1. Timing

a. After installation and acceptance by the Planning Official of the mitigation or vegetative buffer enhancement, the monitoring and maintenance program shall commence.

b. A monitoring report shall be submitted to the Planning Official after each site visit, pursuant to subsection (3) of this section.

2. Monitoring and Maintenance Program for Buffer – Requirements for a monitoring and maintenance program for revegetation of a buffer shall include the following, unless an alternative program is approved by the City.

a. The goals and objectives of the monitoring and maintenance program;

b. The performance standards by which the mitigation will be assessed. At a minimum, buffer vegetation mitigation shall include the following performance standards:

1) Year-1: 100 percent survival of installed vegetation through a combination of survival and replacement;

2) Year-2: 80 percent survival of installed vegetation;

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- 3) Year-3: At least 50 percent native vegetation coverage within the enhanced and created buffer for installed vegetation;
 - 4) Year-5:
 - a) At least 80 percent native vegetation coverage on average throughout the mitigation area. Additionally, two (2) out of three (3) of the following strata of native plant species each must compose at least 20 percent areal cover:
 - (1) Trees;
 - (2) Shrubs; and
 - (3) Woody groundcover (such as kinnikinnick, salal and sword fern);
 - b) At least three (3) native species each making up a minimum of 10 percent coverage;
 - 5) All years:
 - a) Less than 10 percent noxious weeds cover using King County weed list, except less than 20 percent cover of reed canarygrass where a pre-existing or proximate monoculture occurred; and
 - b) No presence of knotweed at any time during the duration of the program period.
- c. Contingency plan identifying a course of action, corrective measures and a timetable to be taken if monitoring indicates that the performance measures have not been met.
3. Monitoring and Maintenance Program for Critical Area Mitigation or Vegetative Buffer Enhancement – A monitoring and maintenance program shall be established for restoration for a wetland or stream due to prior degradation for an approved modification project as part of the mitigation plan or vegetative buffer enhancement plan. The monitoring and maintenance plan shall address goals and objectives as well as performance standards and a contingency plan.
4. Duration and Schedule of Monitoring and Maintenance Program – Unless otherwise required by the Planning Official, the minimum duration of the program shall be as follows:
- a. Three (3) growing seasons for new structures of less than 1,000 square feet of footprint approved pursuant to KZC 90.130 and for additions to nonconformances pursuant to KZC 90.185.
 - b. Five (5) growing seasons for mitigation projects and revegetating a buffer to meet the buffer standards in KZC 90.130, except for forested and scrub-shrub wetlands.
 - c. Ten growing seasons for forested or scrub-shrub wetland creation.
 - d. The required schedule for site visits and reporting for monitoring and maintenance is as follows:
 - 1) For three-year program: two (2) site visits for each of the first two (2) years and one (1) site inspection for the last-third year;
 - 2) For five-year program: two (2) site visits for each of the first two (2) years and one (1) site inspection every 12 months for subsequent years; and
 - 3) For 10-year program: visits in growing seasons 1, 2, 3, 5, 7 and 10.
 - e. The Planning Official may extend the duration of the program and the number of visits at the end of the established monitoring and maintenance period if the program requirements have not been met.

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5. Maintenance Work – Prior to final inspection of the vegetation and any other mitigating measures required in this chapter, the applicant shall submit a signed contract with a landscape maintenance company to maintain the installed improvements over the period of the monitoring program that includes the required maintenance tasks and schedule, except for the following:

a. For commercial, multifamily or institutional uses, if a property owner has an existing contract with a landscape maintenance company and desires that company to maintain the installed improvements, a copy of the contract with that company shall be submitted. The contract shall clearly indicate the inclusion of the required maintenance tasks and schedule.

b. For single-family residential uses, homeowners may maintain the installed improvements if they sign an agreement that runs with the property to maintain the improvements over the period of the monitoring program. The agreement must be recorded with the King County Recorder's Office with the recording fee paid by the homeowner.

If the improvements are not satisfactorily maintained based on the monitoring report at the end of any growing season, then the homeowner shall submit a copy of a contract with a landscape maintenance company to have the company maintain the improvements. This option is not available to developers and builders where the property will be sold on completion of the construction.

c. A City department may choose to maintain the vegetated buffer and any other improvements and not hire a landscape maintenance company.

6. Options for Monitoring Work – The applicant may choose one of the following methods for who performs the monitoring work:

a. City Does Work – If the City will oversee the maintenance and monitoring through the City's consultant, the monitoring fee will be based on an actual cost estimate of the work. The applicant shall submit a cash prepayment for all work to the City prior to issuance of the development permit.

b. Applicant's Consultant Does Work

1) If the City will not perform the monitoring, the applicant shall submit a signed contract to fund a qualified critical area professional, approved by the City, to monitor the maintenance and perform the monitoring over the life of the program. The cost of the work must be included in the performance security under KZC 90.165; and

2) In addition, the applicant shall submit a cash prepayment prior to final inspection of the development permit for the cost of the City to do peer review of the monitoring reports.

7. Financial Security – A financial security for performance, monitoring and maintenance is required pursuant to KZC 90.165.

(Ord. 4551 § 3, 2017)

90.165 Financial Security for Performance, Maintenance and Monitoring

1. Performance or Maintenance Security Requirement

a. A security is required in the amount and form as the Planning Official deems necessary to assure that all work or actions are satisfactorily completed and maintained in accordance with the approved plans, specifications, and permit or approval requirements.

b. State agencies and local government bodies, including school districts, shall not be required to provide a performance or maintenance security. The Planning Official may enforce compliance by not approving final inspection, by administrative enforcement action, or by any other legal means.

c. The security shall be conditioned on the work being completed or maintained in accordance with requirements, approvals, or permits for the site being left or maintained in a safe condition. Also for on the site and adjacent or surrounding areas being restored in the event of damages or other environmental degradation from development or maintenance activities conducted pursuant to the permit or approval.

2. Submitted Documents

a. The security shall be in the form of a:

- 1) Surety bond obtained from companies registered as surety in the state or certified as acceptable sureties on federal bonds;
- 2) Assignment of funds or account;
- 3) Escrow agreement;
- 4) Irrevocable letter of credit; or
- 5) Other financial security device.

b. A completed security information form, security agreement and license to enter property document along with the required recording fee for that document shall be submitted. All forms shall be provided by the City.

3. When Submitted – A financial security for performance, monitoring and maintenance shall be submitted prior to issuance of a land surface modification or building permit for plantings, improvements and other mitigation measures required in this chapter. The performance portion of the security will be released upon City approval of the installed mitigation.

4. Determination of the Security Amount

a. Determination of the security amount shall be done using the City's security value worksheet based on the approved plans, specifications, permit or approval requirements, and applicable regulations. Construction, maintenance and monitoring costs shall be based on King County's or the City of Kirkland's Critical Areas Mitigation Bond Quantity Worksheet. The City may request changes in unit pricing if the worksheet is found to be out of date with respect to current market prices;

b. The financial security shall be equal to or greater than 150 percent of the estimated cost of conformance to plans, specifications and permit or approval requirements of this chapter, including corrective work, compensation, enhancement, mitigation, monitoring, maintenance and restoration of critical areas; and

c. Actual security costs shall include all labor, materials, erosion control and other general items, and sales tax associated with the required work. The security shall be sufficient to guarantee that all required improvements and measures will be completed in a timely manner and with sufficient funds in accordance with this chapter. The security shall cover all work or actions not satisfactorily completed or maintained that need to be corrected to comply with the approved plans.

5. Cash Deposit – A cash deposit for the cost of City administration of the security shall be submitted with the financial security.

6. Duration of Performance, Monitoring and Maintenance Security

a. Duration of monitoring and maintenance security shall be consistent with the approved program pursuant to KZC 90.160;

b. The performance or maintenance security may be released upon written notification by the Planning Official, following final site inspection or when the Planning Official is satisfied that the work or activity complies with permits or approved requirement;

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- c. The Planning Official may require a security longer than stated in KZC 90.160 for complex mitigation projects, such as creation of wetlands, daylighting of a stream or relocating a stream channel, or to extend the length of a security for projects where vegetation or other improvements have been poorly maintained over several years or for code enforcement actions; and
- d. No portion of the security may be released early during the established monitoring and maintenance period to ensure that potential catastrophic failure of the plantings and other improvements that may occur in the future are covered.
7. Corrective Measures
- a. If, during the term of the performance, maintenance and monitoring security, the Planning Official determines that conditions exist which do not conform with the plans, specification, approval or permit requirements, the Planning Official may issue a stop work order prohibiting any additional work or maintenance until the condition is correct;
- b. The Planning Official may call in all or a portion of a performance, maintenance and monitoring security to correct conditions that are not in conformance with plans, specifications, approval or permit requirements; and
- c. Where monitoring reveals a failure of mitigation or maintenance measures, the applicant shall be responsible for appropriate corrective action which, when approved by the Planning Official, shall be subject to further monitoring. The Planning Official shall determine the additional monitoring requirements as needed.
8. Transfer of Security – In the event that a performance, monitoring and maintenance security is transferred to a subsequent property owner or management entity:
- a. An additional City administrative fee shall be charged for transferring a security to a subsequent owner;
- b. The applicant and the subsequent owner must document the transfer authority of the security; and
- c. A written agreement from the subsequent owner shall be submitted agreeing to the costs and other responsibilities of the maintenance and monitoring program.
9. Obligation – Any inability of a security device to fund the cost of the security shall not discharge the obligation of an applicant or violator to complete the required mitigation, maintenance or monitoring.

(Ord. 4551 § 3, 2017)

90.170 Subdivisions and Maximum Development Potential

1. Subdivisions – The subdivision and/or short subdivision of land in a wetland, stream or related buffer is subject to the following criteria and subsections (2) through (4) of this section:
- a. Land that is located entirely within a wetland, stream or related buffer may not be subdivided.
- b. Land that is located partially within a wetland, stream or related buffer may be subdivided if, as part of the short plat or subdivision application, the applicant demonstrates that:
- 1) Each lot contains sufficient developable area to accommodate the allowed use(s) in that zone, including required vehicular access, parking, and storm water management facilities outside of the critical area and its buffer; and
 - 2) Each lot meets all zoning requirements applicable to that zone, except for reduced dimensional design standards for residential uses pursuant to KZC 90.175.
2. Calculating Allowed Number of Dwelling Units – The maximum potential number of dwelling units for a subject property that contains a wetland, stream, minor lake or their buffers is reduced from the maximum potential number of dwelling units that otherwise are allowed in the underlying zone.

3. Maximum Development Potential Calculation

a. The maximum potential number of dwelling units shall be the buildable area in square feet divided by the minimum lot area per unit or the maximum units per acre as specified by Chapters 15 through 56 KZC, plus the area of the required critical area buffer in square feet divided by the minimum lot area per unit, the maximum units per acre or as specified by Chapters 15 through 56 KZC, multiplied by the development factor derived from subsection 2 of this section as provided in the formula below:

$$\text{MAXIMUM DWELLING UNIT POTENTIAL} = (\text{BUILDABLE AREA} / \text{THE PRESCRIBED MINIMUM LOT AREA PER UNIT OR MAXIMUM UNITS PER ACRE}) + [(\text{BUFFER AREA} / \text{THE PRESCRIBED MINIMUM LOT AREA PER UNIT OR MAXIMUM UNITS PER ACRE}) \times (\text{DEVELOPMENT FACTOR})]$$

b. For purposes of this subsection only, “buildable area” means the total area of the subject property minus critical areas and their buffers.

c. A professional survey of the approved delineation markings shall determine the area of critical area and buffer on the subject property pursuant to KZC 90.110.

d. For multifamily development, and single-family development in RSA zones, if application of the maximum development potential formula results in a fraction, the number of permitted dwelling units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.50.

e. For single-family development in low density zones other than the RSA zones, the number of permitted dwelling units shall be rounded down to the previous whole number (unit) regardless of the fraction of the whole number.

f. For developments providing affordable housing units pursuant to Chapter 112 KZC, or cottage, carriage or two/three unit homes pursuant to Chapter 113 KZC, or low impact development pursuant to Chapter 114 KZC, the maximum dwelling unit potential of this section establishes the base density allowed. The additional density or bonus units allowed by those chapters shall be in addition to the maximum dwelling unit potential.

g. The provisions in KZC 125.30 for density under a planned unit development shall not be applied to properties containing critical areas or buffers.

h. The maximum development potential formula shall not be construed to preclude application of Chapter 22.28 KMC (lot size reduction, low impact development, small lot single-family, and historic preservation) to potentially achieve an increased number of single-family dwelling units for short plats and subdivisions.

i. Lot size and/or density may be limited by or through other provisions of this code or other applicable law, and the application of the provisions of this chapter may result in the necessity for larger lot sizes or lower density due to inadequate buildable area.

4. Development Factor – The development factor, consisting of a “percent credit,” to be used in computing the maximum potential number of dwelling units for a site which contains a critical area buffer is derived from the following table:

Table 90.170.1 Maximum Development Potential

Percentage of Site in Critical Area Buffer			Counted at
< 1%	To	10%	100%
> 10%	To	20%	90%
> 20%	To	30%	80%

Percentage of Site in Critical Area Buffer			Counted at
> 30%	To	40%	70%
> 40%	To	50%	60%
> 50%	To	60%	50%
> 60%	To	70%	40%
> 70%	To	80%	30%
> 80%	To	90%	20%
> 90%	To	100%	10%

(Ord. 4551 § 3, 2017)

90.175 Dimensional Design Standards for Residential Uses

1. Reduced Dimensional Standards for Residential Uses – The following dimensional requirements may be reduced for the noncritical area portion of the site to accommodate the constraints of the buildable area of the site; provided, that the applicant shall demonstrate that:

a. The reduction is be the minimum necessary to allow avoidance of the critical area, critical area buffer and structure setback; and

b. The resulting development is compatible with other development or potential development in the immediate vicinity of the subject property in the same zone and with similar site constraints.

2. Standards – The reduced standards are as follows:

Table 90.175.1 Reduced Dimensional Standards for Residential Uses

Reduced Dimensional Standards for Residential Uses		
Minimum Required Yards	<ul style="list-style-type: none"> • • • 	0' for interior side and rear yards within the proposed development to encourage clustering between dwelling units 10' for front yards 5' for side and rear yards that abut properties that are not part of the proposed development
Minimum Parking Pad Dimensions ¹	<ul style="list-style-type: none"> • • 	width – 8.5 feet per required stall depth – 18.5 feet per required stall
Tandem Parking	<ul style="list-style-type: none"> • 	allowed where stalls are shared by the same dwelling unit

Notes:

1. Any garage or other structure shall be set back a minimum of 18.5 feet from the property line to allow on-site parking on the driveway without blocking a sidewalk.

(Ord. 4551 § 3, 2017)

90.180 Reasonable Use Exception

1. Purpose – The purpose of the reasonable use exception is to:

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- a. Provide the City with a mechanism to approve limited use and disturbance of a critical area and critical area buffer when strict application of this chapter would deny all economically viable use of the subject property;
 - b. Establish guidelines and standards for the exercise of this authority adjusted to the specific conditions of each subject property; and
 - c. Protect public health, welfare and safety of the citizens of Kirkland.
2. Reasonable Use – Reasonable use is a legal concept that has been articulated by federal and state courts in regulatory takings cases. In a takings case, the decision-maker must balance the public benefit against the owner's interests by considering the nature of the harm the regulation is intended to prevent, the availability and effectiveness of alternative measures, and the economic loss borne by the owner. Public benefit factors include the seriousness of the harm to be prevented, the extent to which the land involved contributes to the harm, the degree to which the regulation solves the problem, and the feasibility of less oppressive solutions.
3. Reasonable Use Process – If the strict application of this chapter would preclude all reasonable use of the subject property, an owner of the subject property may apply for a reasonable use exception. The application shall be considered under Process I of Chapter 145 KZC.
4. Submittal Requirements – As part of the reasonable use exception request application the applicant shall submit a critical area report pursuant to KZC 90.110, prepared by a qualified critical area professional approved by the City, and also fund peer review of this report by the City's consultant. The report shall include the following:
- a. For a wetland, the additional report information requirements specified in KZC 90.110(5). For a stream, the additional report information requirements specified in KZC 90.110(6);
 - b. An analysis of whether any other reasonable use with less impact on the critical area and critical area buffer is possible;
 - c. Site design and construction staging of the proposal shall have the least impact to the critical area and critical area buffer;
 - d. A site plan showing:
 - 1) The critical area, critical area buffer and structure setback required by this chapter;
 - 2) The proposed area of disturbance both on and off the subject property pursuant to the disturbance area limitations of subsection (5)(c) of this section;
 - 3) The footprint of all proposed structures and improvements meeting the conditions of subsection (5) of this section, including:
 - a) Buildings;
 - b) Garages and parking areas;
 - c) Driveways;
 - d) Paved surfaces, such as walking paths;
 - e) Patios, decks and similar structures;
 - f) Utility and storm water improvements;
 - g) Yard landscaping;
 - h) Retaining walls and rockeries;

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- e. A description of protective measures that will be undertaken, such as siltation curtains, compost berms and other siltation prevention measures, and scheduling the construction activity to avoid interference with wildlife and fisheries rearing, nesting or spawning activities;
- f. An analysis of the impact that the proposed development would have on the critical area and the critical area buffer;
- g. How the proposal mitigates for impacts to the critical areas and buffers;
- h. How the proposal minimizes to the greatest extent possible net loss of critical area functions;
- i. Whether the improvement is located away from the critical area and the critical area buffer to the greatest extent possible; and
- j. Such other information or studies as the Planning Official may reasonably require.

5. Decisional Criteria – For purposes of this section, “site” means the area of disturbance on the subject property, on abutting lots, and/or within the right-of-way. The City shall approve applications for reasonable use exceptions only if all of the following criteria are met:

a. The following land uses may be proposed with a reasonable use exception:

1) ~~Residential zones~~ ~~one (1)~~ single-family dwelling;

~~2) Commercial or Office~~ Non-Residential zones:

~~a2)~~ An office use, except veterinary offices with outdoor facilities; and

~~b3)~~ A limited retail establishment, excluding restaurants and taverns, gas stations, vehicle or boat sales, service or repair, car washes, drive-thru, outdoor seating area and storage. In order to limit disturbance and impacts to the critical area and buffer these uses shall:

~~(4a)~~ Locate parking on the opposite side of the building from the critical area; and

~~(2b)~~ Limit hours of operation to between 8:00 a.m. and 11:00 p.m.

b. There is no feasible alternative to the proposed activities and uses on the subject property, including reduction in size, density or intensity, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations that would allow a reasonable economic use with less adverse impacts to the critical area and buffer.

c. Unless the applicant can demonstrate unique circumstances related to the subject property, the amount of site area that will be disturbed by structure placement and all land alteration associated with the proposed development activity, including but not limited to land surface modification, utility installation, decks, driveways, paved areas, and landscaping, shall not exceed the following limits:

1) If the subject property contains 6,000 square feet of area or less, no more than 50 percent of the site may be disturbed.

2) If the subject property contains more than 6,000 square feet but less than 30,000 square feet, no more than 3,000 square feet may be disturbed.

3) For the subject property containing 30,000 square feet or more, the maximum allowable site disturbance shall be between 3,000 square feet and 10 percent of the lot area, to be determined by the City on a case-by-case basis.

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4) The amount of allowable disturbance shall be that which will have the least impact on the critical area and the critical area buffer given the characteristics and context of the subject property, critical area, and buffer.

5) Public improvements within the right-of-way required by Chapter 110 KZC (for example required curb, gutter and sidewalk improvements) are not counted in the maximum allowable area of site disturbance. The City shall allow or require modifications to the public improvement standards that minimize the impact to the critical area and buffer and any impacts associated with required public improvements shall be mitigated by the applicant.

6) The portion of a driveway located within an improved right-of-way is not counted in the maximum allowable area of site disturbance. However, a driveway or any other private improvement located in an unimproved right-of-way shall be counted in the maximum allowable area of site disturbance. See subsection (6)(a)(2) of this section for modification to calculating on-site driveways.

The applicant shall pay for a qualified critical area professional, approved by the City, to assist with the City's determination of the appropriate limit for disturbance.

d. The proposal is compatible in design, scale and use with other legally established development in the immediate vicinity of the subject property in the same zone and with similar critical area site constraints.

e. The proposal utilizes to the maximum extent possible innovative construction, design, and development techniques that minimize to the greatest extent possible net loss of critical area functions and values, including pin construction, vegetated roofs, and pervious surfaces.

f. The proposed development does not pose an unacceptable threat to the public health, safety, or welfare on or off the subject property.

g. The proposal meets the mitigation, maintenance, and monitoring requirements of this chapter.

h. The proposed development is on a lot meeting the criteria of KZC 115.80, Legal Building Site.

i. The inability to derive reasonable use is not the result of the applicant's actions or that of previous property owners, such as by altering lot lines pursuant to Chapter 22 KMC that results in an undevelopable condition.

j. The granting of the exception will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures under similar circumstances.

6. Modifications and Conditions – The City shall include any conditions and restrictions in the written decision that the City determines are necessary to eliminate or minimize any undesirable effects of approving the proposal. To provide reasonable use of the subject property and reduce the impact on the critical area and critical area buffer, the Planning Director pursuant to a Process I under Chapter 145 KZC is authorized to approve the following modifications:

a. Residential

1) Where the applicant demonstrates that the residential development cannot meet the City's code requirements without encroaching into the critical area or critical area buffer:

a) The required front yard may be reduced by up to 50 percent; provided, that a minimum of 18.5-foot-long parking pad between the structure and the lot line is provided; and

b) The required side and rear yards may be reduced to five (5) feet in width.

2) The portion of a driveway exceeding 30 feet in length may be exempt from the calculation of the permitted disturbance area; provided, that the driveway length is the minimum necessary to provide access to the building.

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- 3) The structure setback from a critical area buffer pursuant to KZC 90.140 may be reduced to five (5) feet in width; provided, that those improvements allowed in this area are limited to:
 - a) Chimneys, bay windows, greenhouse windows, eaves, cornices, awnings and canopies, and decks above the ground floor extending no more than 18 inches into the structure setback;
 - b) Benches, walkways, paths and pedestrian bridges extending no more than four (4) feet into the structure setback;
 - c) Garden sculpture, light fixtures, trellises and similar decorative structures extending no more than four (4) feet in width into structure setback; and
 - d) Nonnative and native landscaping.
- 4) The garage width requirements of KZC 115.43 for detached dwelling units in low-density zones may be waived.
- 5) The maximum height of structures may be increased up to five (5) feet if needed to reduce the slope of a driveway to a structure based on existing grade. The applicant must demonstrate that the additional height is needed to reduce the steepness of the slope and no other option is available.

b. ~~Commercial-Non-Residential~~ – Where the applicant demonstrates that the ~~commercial-non-residential~~ development cannot meet the City’s code requirements without encroaching into the critical area or critical area buffer:

- 1) The required front yard may be reduced by up to 50 percent.
- 2) The structure setback from a critical area buffer may be reduced by five (5) feet in width; provided, that those improvements allowed in this area are limited to:
 - a) Chimneys, bay windows, eaves, cornices, awnings and canopies;
 - b) Benches, walkways, paths and pedestrian bridges extending no more than four (4) feet into the structure setback;
 - c) Light fixtures, trellises and similar decorative structures extending no more than four (4) feet into the structure setback; and
 - d) Nonnative and native landscaping.
- 3) The maximum height of structures may be increased up to five (5) feet if needed to reduce the slope of a driveway to a structure based on existing grade. The applicant must demonstrate that the additional height is needed to reduce the steepness of the slope and no other option is available.
- 4) The portion of a driveway exceeding 30 feet in length may be exempt from the calculation of the permitted site disturbance area; provided, that the driveway length is the minimum necessary to provide access to the building.

7. Lapse of Approval

a. The reasonable use exception approval expires and is void if the applicant fails to file a complete building permit application within five (5) years of the final decision granting or approving the exception. However, in the event judicial review is initiated per KZC 145.110, the running of the five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. “Final decision” means the final decision of the Planning Director; and

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b. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within seven (7) years after the final approval on the matter, or the decision becomes void.

8. Complete Compliance Required

a. General – Except as specified in subsection (8)(b) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter in order to construct the improvements authorized by the approval.

b. Exception: Subsequent Modification – The Planning Official may approve a subsequent modification to a specific use and site plan that has been approved through the reasonable use exception, provided the change meets the standards of this chapter. Otherwise, the applicant is required to apply for and obtain approval through a Process I pursuant to Chapter 145 KZC for a new reasonable use exception.

(Ord. 4551 § 3, 2017)

90.185 Nonconformances

1. General Provisions for Nonconforming Structures and Improvements in Critical Areas or Buffer – The following general provisions apply to properties that contain nonconformances due to the existence of buffers and/or critical areas, until such times as redevelopment of the property is proposed that meets the threshold in KZC 90.130:

a. Legally established structures and improvements may remain and be repaired and maintained. See KZC 90.35 and subsection (3) of this section;

b. New structures or improvements may not be added or expanded in the buffer and/or critical area, including those listed in KZC 90.140;

c. Legally established lawns may be mowed and maintained, but not expanded in the buffer and/or critical area; and

d. Nonnative vegetation may be maintained, but not expanded in the buffer and/or critical area.

2. General Standards for Subsections (3) through (6) of This Section

a. Except for above ground floor expansions, ~~the~~ the provisions of subsections (4) through (6) of this section may each be used one (1) time for the subject property and may be used in combination. Any building permit application utilizing these provisions shall clearly document the proposed location and size relative to the specific provision(s) being utilized. Above ground floor expansions, pursuant to subsection (4.a), may be utilized an unlimited number of times.

b. Any structures or improvements that are nonconforming because of the regulations in this chapter shall be regulated pursuant to the following provisions rather than the provisions of Chapter 162 KZC. However, nonconforming multifamily structures for density pursuant to KZC 162.35(12) and continued uses pursuant to KZC 162.55 shall be regulated under Chapter 162 KZC and shall not be eligible to use the provision in this section;

c. No disturbance to the critical area is permitted. Any disturbance to the critical area buffer as a result of development activity shall be the minimum necessary and all disturbed areas shall be restored to pre-existing condition;

d. Any existing native vegetation removed in the buffer as part of the disturbance shall be replaced with native vegetation at a 1:1 ratio;

e. The limits of disturbance and a replanting plan for disturbed areas, if applicable, shall be submitted as part of the building permit application;

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- f. Temporary construction fencing is required pursuant to KZC 90.190. The Planning Official shall determine the appropriate location of the fencing depending on the location of existing improvements in relationship to the critical area buffer;
- g. Lawn and nonnative landscaped areas shall not be expanded in the buffer area; and
- h. All costs for review by a qualified critical area professional and the City's review, mitigation and restoration shall be at the expense of the applicant.
3. Maintenance and Repair of Nonconforming Structure
- a. A legal nonconforming structure may be maintained and repaired as an exemption pursuant to KZC 90.35; provided, that the work does not increase the previously approved structure footprint or impervious area.
- b. Multifamily structures in multifamily zones that are nonconforming for density may not increase the density as part of the work on the structure. See KZC 162.35(12).
4. Reconstruction of Existing Nonconforming Structures
- a. General Standards
- 1) If there is no increase in the size of the structure footprint or impervious area and the reconstructed structure is no closer to the critical area, then the requirements of KZC 90.105 and 90.110 for a critical area determination and report, KZC 90.130 for vegetative buffer, KZC 90.190 for critical area fencing and signage and KZC 90.210 for dedication of critical area and buffer are not required.
 - 2) Existing buffer fencing, native buffer vegetation and dedication of the critical area must be retained.
- b. Detached Dwelling Units
- 1) An existing legally nonconforming building or detached garage may be reconstructed as repair, replacement or due to casualty damage such as a fire; provided, that:
 - a) There is no expansion of the existing size of the footprint, including decks or patios or other improvements;
 - b) There is no increase in impervious surface;
 - c) There is no expansion of existing exterior walls, including adding exterior walls below a cantilevered structure; except for new additional upper floors in subsection (4)(b)(4) of this section;
 - d) There is no increase in the nonconformity in any way; and
 - e) Reconstruction is built on the existing foundation, except as provided in subsection (4)(b)(2) of this section;
 - 2) With the exception of a casualty damage, if a new foundation is to be built, the new foundation must be relocated outside of the critical area, its buffer and the structure setback to the greatest extent possible given other required yards, configuration of the subject property and existing improvements;
 - 3) For casualty damage, a structure may be reconstructed on the existing foundation, or a new foundation may be built in the same location or away from the critical area, but not closer to the critical area; and
 - 4) Additional upper floors may be added above the ground floor if they do not encroach into the critical area, its buffer or the structure setback any further than the exterior walls of the existing nonconforming structure.

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c. All Other Uses

- 1) An existing legally nonconforming structure may be reconstructed as repair, reconstruction or due to a casualty damage such as a fire; provided, that there is no expansion of the existing footprint or increase of impervious area, including decks, patios or other improvements, no expansion of exterior walls, including adding exterior walls below a cantilevered structure, no increase in the nonconformity in any way, and reconstruction is built on the existing foundation;
- 2) Additional upper floors may be added above the ground floor if they do not encroach into the critical area, its buffer or the structure setback any further than the exterior walls of the existing nonconforming structure; and
- 3) If the cost of the reconstruction as a repair, replacement or due to a casualty damage, or for any upper floor additions exceeds 50 percent of the assessed or appraised value of that primary structure and all improvements attached to the primary structure~~improvement~~, whichever is greater, the structure and improvements shall be brought into conformance.

d. In case of casualty damage, the following is required:

- 1) A complete building permit application to rebuild a nonconforming structure must be submitted within two (2) years of the date of the damage or the nonconformance shall be considered to be terminated and shall not be replaced in its prior nonconforming location; and
- 2) Rebuilding of the nonconforming structure shall be substantially complete within four (4) years of the date of the damage or the nonconformance shall be considered to be terminated and shall not be replaced in its prior nonconforming location; and
- 3) Documentation showing the date of the damage, the location and dimensions of the damaged structure and cause of the damage shall be submitted to the Planning Official for review and confirmation.

5. Expansion of Nonconforming Structure that Does Not Increase the Degree of Nonconformance – An existing, legally established nonconforming ~~building structure~~ may be expanded outside of a critical area, buffer or the building setback under the following standards and limitations:

- a. Except as disallowed under subsection (3)(b) of this section for multifamily structures that are nonconforming for density, an expansion of a nonconforming structure that increases the footprint, impervious area or size of the structure, including new upper floors, is permitted if the expansion or any other change to the structure is outside of the critical area, critical area buffer, and structure setback.
- b. If the size of the new net impervious surface or cost of new or replacement improvements meets KZC 90.130(3)(a), the requirements of KZC 90.105 and 90.110 for a critical area determination and report, KZC 90.130 for vegetative buffer, KZC 90.160 and 90.165 for monitoring and maintenance and financial security, KZC 90.210 for dedication of critical area and buffer and subsection (6)(a)(11) of this section for fencing and signage shall be met.
- c. If the size of new net impervious area meets KZC 90.130(3)(b), the requirements of subsections (6)(a)(7) through (12) of this section shall be met.

6. Expansion of Nonconforming ~~Building Structure~~ that Increases the Nonconformance – An existing, legally established nonconforming ~~building structure~~ may be expanded into a critical area buffer or the building setback under the following standards and limitations:

a. General Standards for Any Expansion

- 1) ~~The eExpansion– provisions of KZC 90.185.6.b, c, d, and e are~~ only permitted for those ~~buildings-structures~~ that have not received City approval for a critical area or buffer modification allowed under this or a previous code or not received approval for a reasonable use exception pursuant to KZC 90.180;

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- 2) A one (1) time expansion of each option found in subsections (6)(b) through (e) of this section is permitted on a subject property. No more than one expansion is permitted for each option. See vegetative buffer standards in KZC 90.130;
- 3) No expansion is permitted in a critical area buffer that is a fish and wildlife conservation area without an approved management plan pursuant to KZC 90.95;
- 4) The following nonconforming improvements are allowed without going through review under subsections (6)(b) through (e) of this section if a new or replacement foundation is not required:
 - a) Upper floor additions are allowed above the ground floor of an existing nonconforming building if they do not encroach closer to the critical area buffer or structure setback from the buffer beyond the existing exterior walls;
 - b) Existing carports and decks with roofs may be enclosed if the new exterior walls do not extend beyond the existing foundation or corner supports of the structure; and
 - c) An interior open courtyard of an existing building may be enclosed if the courtyard is covered entirely with impervious material. See subsection (6)(d) of this section if the material is not entirely impervious;
- 5) Covering an existing deck with a roof or an existing pathway with a breezeway or similar improvements may be proposed using subsections (6)(b) through (e) of this section;
- 6) Any commercial parking required for additions shall not be located in the critical area buffer;
- 7) A critical area determination, report and a survey pursuant to KZC 90.105 and 90.110 are required if the wetland has not been rated and delineated pursuant to KZC 90.55 within the past five (5) years or the stream has not been classified or delineated pursuant to KZC 90.65;
- 8) Compensatory mitigation through buffer restoration shall be provided as follows:
 - a) A native vegetative buffer at a minimum ratio of 1:1 (new footprint area is equal to or less than vegetative buffer area) shall be provided;
 - b) If the new or expanded building footprint results in removal of a significant tree in a buffer, the tree shall be replaced with two (2) native trees in the buffer. The replacement tree shall be six (6) feet tall for a conifer and 2-inch caliper for deciduous or broadleaf. For a removed significant tree in a buffer that is 24 inches in diameter, the tree shall be replaced with three (3) native trees;
 - c) The vegetative buffer shall be located along the edge of the critical area or as close to the critical area as possible if the critical area is located off-site;
 - d) The vegetative buffer shall be 10 feet in depth and located across from the building expansion area;
 - e) The buffer vegetative standards pursuant to KZC 90.130 shall be used as a guideline for the mitigation area; and
 - f) The mitigation is in addition to revegetation of any disturbed area;
- 9) A mitigation planting plan, prepared by a qualified critical area professional approved by the City, shall be submitted for approval as part of the building permit. Prior to final inspection, replanting of any disturbed area and the mitigation planting shall be installed by the applicant and inspected by the City;
- 10) A performance and three-year maintenance and monitoring security shall be submitted with the building permit pursuant to KZC 90.165 for the mitigation plan;

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- 11) Permanent critical area fencing and signage is required. Prior to issuance of a building permit, the Planning Official shall determine the location of the required critical area fencing and signage to be installed pursuant to KZC 90.190.
 - a) The fencing shall be located at the edge of the buffer. However, if all or portions of the buffer is covered by legally established lawn, nonnative vegetation and/or improvements, then the fencing shall be located at the boundary of that maintained area;
 - b) If the critical area is off site and that maintained area extends to the property line, then the fencing shall be located at the property line; and
 - c) Existing buffer fencing may need to be relocated to meet this provision;
 - 12) A critical area covenant on a form approved by the City shall be recorded along with an as-built site plan showing the location of the approved expansion and mitigation vegetation in the buffer to protect the vegetated portion of the buffer in perpetuity. A critical area dedication pursuant to KZC 90.210 is not required for the vegetated portion of the buffer.
- b. Expansion into Critical Area Buffer on Side of the Building Opposite of Critical Area
- 1) The footprint of an existing building may be expanded into the critical area buffer on the side of the building opposite of the critical area buffer up to a maximum of 1,000 square feet. The existing building must be between the addition and the critical area (see Chapter 180 KZC, Plate 26);
 - 2) Only a one (1) time expansion of this option is permitted for the subject property. See subsection (6)(a)(2) of this section; and
 - 3) See general standards in subsection (6)(a) of this section for an expansion.
- c. Expansion into Structure Setback from the Buffer
- 1) The footprint of an existing building may be expanded into the structure setback up to a maximum of 500 square feet;
 - 2) If an addition is located at the edge of the buffer, the portion of the buffer next to the side of the addition abutting the buffer is considered a structure setback from the buffer. Only necessary maintenance and repair of the addition are permitted in this portion of the structure setback. No improvements pursuant to KZC 90.140 are permitted in this portion of the structure setback;
 - 3) Only a one (1) time expansion of this option is permitted for the subject property. See subsections (6)(a)(2) of this section; and
 - 4) See general standards in subsection (6)(a) of this section for a building expansion.
- d. Expansion into Critical Area Buffer but No Closer than the Existing Building
- 1) The footprint of an existing building may be expanded into the critical area buffer, but no closer than the edge of the existing building nearest to the critical area, up to a maximum of 500 square feet (see Chapter 180 KZC, Plate 26);
 - 2) An interior open courtyard of an existing building may be enclosed up to 500 square feet if the courtyard is covered partially or entirely with pervious material. This improvement can be done in conjunction with subsection (6)(d)(1) of this section if the total new impervious area of the expanded building does not exceed 500 square feet;
 - 3) The minimum buffer width for the addition shall be 60 percent of the required buffer width standard pursuant to KZC 90.55 for wetlands and KZC 90.65 for streams;

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- 4) Only a one (1) time expansion of this option is permitted for the subject property. See subsections (6)(a)(2) of this section; and
 - 5) See general standards in subsection (6)(a) of this section for a building expansion.
- e. Expansion into Critical Area Buffer between the Building and the Critical Area
- 1) The footprint of a building may be expanded into the critical area buffer between the building and the critical area up to a maximum of 250 square feet (see Chapter 180 KZC, Plate 26);
 - 2) The new footprint must be attached to the original building and not to any subsequent footprint addition under subsection (6) of this section;
 - 3) The minimum buffer width for the addition shall be 60 percent of the required buffer width standard pursuant to KZC 90.55 for wetlands and KZC 90.65 for streams;
 - 4) Only a one (1) time expansion of this option is permitted for the subject property. See subsection (6)(a)(2) of this section; and
 - 5) See general standards in subsection (6)(a) of this section for a building expansion.

(Ord. 4551 § 3, 2017)

90.190 Critical Area Markers, Fencing and Signage

1. Survey Stakes – Permanent survey stakes delineating the boundary of the critical area buffer shall be set, using iron or concrete markers as established by current survey standards. For public projects, alternative survey stakes may be approved by the Planning Official, such as flexible delineator posts.
2. Construction Fencing
 - a. Prior to commencement of any grading or other development activities on the subject property, a six-foot-high construction chain link fence with silt fencing must be installed along the entire edge of the buffer;
 - b. The fence may not be located in the critical area or its buffer, except see nonconformance section pursuant to KZC 90.185(2);
 - c. The Planning Official shall inspect the fence prior to commencement of any work;
 - d. The fence must remain in place until completion of the project and not be removed at any time other than as authorized by the Planning Official;
 - e. The location of construction fencing for nonconformances shall be on a case-by-case basis as determined by the Planning Official; and
 - f. The location of construction fencing for public agency and utilities activities, improvements or uses shall be determined on a case-by-case basis by the Planning Official.
3. Permanent Fencing
 - a. Except as specified in subsections (3)(b) through (d) of this section, upon completion of the project:
 - 1) A permanent split rail, open slatted with at least 18 inches between each slat, wrought iron, chain link, or similar nonsolid fence between three (3) and six (6) feet in height must be installed along the entire edge of the buffer;
 - 2) Solid fencing is not permitted;

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- 3) Except for split rail, a gate is required for pedestrian access to the buffer;
 - 4) The fence may not be located in the critical area buffer, except for properties containing nonconformances pursuant to KZC 90.185(6)(a)(11);
 - 5) The Planning Official shall inspect the fence prior to final inspection; and
 - 6) The fence must be maintained and remain in perpetuity.
- b. Except for utility substations, permanent fencing is not required for public or private utility activities or uses occurring in utility corridors, public rights-of-way, the Cross Kirkland Corridor or the Eastside Rail Corridor.
- c. The location of permanent fencing for public agency activities, improvements or uses shall be determined on a case-by-case basis by the Planning Official.
- d. The location of fencing for nonconformances shall be determined on a case-by-case basis by the Planning Official. See KZC 90.185.
4. Permanent Signage
- a. Upon completion of the project, permanent signage shall be attached to the fence stating that the protected critical area and buffer must not be disturbed other than necessary for maintenance of vegetation;
 - b. The signs must be maintained and remain in perpetuity;
 - c. Signage shall meet the administrative standards of the Planning and Building Department for design, number and location;
 - d. The location of signage for public agency activities or uses shall be determined by the Planning Official on a case-by-case basis;
 - e. Signage for nonconformances shall be determined on a case-by-case basis by the Planning Official. See KZC 90.185; and
 - f. The Planning Official shall inspect the signage prior to final inspection.

(Ord. 4551 § 3, 2017)

90.195 Pesticide and Herbicide Use

Application of pesticides, herbicides, or fertilizers and irrigation practices for residential, commercial and institutional uses shall follow ~~the best management practices (BMP) for landscaping activities and vegetation management in the King County Stormwater Pollution Prevention Manual, as amended~~ the application of pesticides, herbicides, and fertilizers. These practices include:

1. Never apply pesticides and fertilizers if it is raining or about to rain;
- ~~2. Do not apply pesticides within 100 feet of surface waters, such as lakes, ponds, wetlands, streams and storm-water conveyance ditches unless approved and permitted by the Washington State Department of Ecology;~~
3. Determine the proper fertilizer application for the types of soil and vegetation involved. Follow manufacturers' recommendations and label directions;
4. Clean up after spills immediately;
5. Use mulch or other erosion control measures when soils are exposed for more than one (1) week during the dry season or two (2) days during the rainy season;

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6. Ensure sprinkler systems do not spray beyond vegetated areas resulting in the excess water discharging into the storm drain system; and
7. Use of hazardous substances, pesticides and fertilizers in a critical area containing a fish and wildlife habitat conservation area must follow state and City standards.

(Ord. 4551 § 3, 2017)

90.200 Critical Area Buffer and Structure Setback from Buffer Under Prior Approvals

1. If the City approved a development permit through Process I, II, IIA, IIB, or a Planning Official decision (excluding critical area determinations and delineations), and/or a subdivision or short subdivision, and that development permit or subdivision or short subdivision approval established critical area buffers and/or structure setbacks on the subject property allowed under the KZC at the time of approval, then those structure setbacks and/or buffers shall apply; provided, that:

- a. The development permit or subdivision or short subdivision approval is valid; and
- b. The development permit or subdivision or short subdivision has not lapsed pursuant to the applicable lapse of approval standards.

All further development activity and construction on the subject property shall comply with the provisions of this chapter.

2. All provisions of this chapter that do not conflict with the structure setback and/or buffer requirements set forth in subsection (1) of this section shall fully apply to the subject property.

(Ord. 4551 § 3, 2017)

90.205 Code Enforcement

Violations shall be subject to the City's code enforcement procedures and penalties under Chapter 1.12 KMC. In addition to any enforcement action or determinations pursuant to Chapter 1.12 KMC, enforcement for critical area violations shall meet the following requirements:

1. Unauthorized development activity, use, land surface modification or other disturbances to a critical area or buffer shall cease immediately. All disturbances shall be rectified and restored consistent with an approved correction plan;
2. A correction plan, prepared by a qualified critical area professional approved by the City, must be submitted to the City within 30 calendar days of the enforcement notice from the City in conformance with this chapter unless otherwise approved by the City;
3. The correction plan shall include:
 - a. Site plan drawn to scale;
 - b. Location of the sensitive area and buffer;
 - c. Affected area;
 - d. A restoration plan that includes a planting plan that meets the requirements for a vegetative buffer in KZC 90.130 if the disturbance occurred in the buffer. If the disturbance occurred in a stream or wetland, the restoration plan must propose appropriate restoration based on the type of wetland or stream;
 - e. The Planning Official may require a critical area report pursuant to KZC 90.110, funded by the property owner, or at a minimum a wetland delineation of the disturbed wetland, classification of a stream if it cannot be determined by the City, boundary of the critical area buffer and a survey depending on the extent and nature of the disturbance; and

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- f. The critical area report shall make recommendations on a correction plan. The City may require the applicant to fund City peer review of the correction plan depending on the nature and extent of disturbance.
4. The Planning Official shall review and approve the correction plan based on the regulations in this chapter and inspect the restoration after installation. The City may require the applicant to fund City peer review to inspect the restoration plan depending on the nature and extent of disturbance;
5. The applicant shall pay the City's cost for the enforcement, including review of the plan and doing the inspection;
6. The City may require a monitoring and maintenance plan for approval by the Planning Official pursuant to KZC 90.160 depending on the nature and extent of the disturbance;
7. The City may require a performance and maintenance/monitoring financial security for restoration depending on the nature and scope of the disturbance. If a security is required, the security shall be on a form and in an amount determined by the Planning Official. See KZC 90.165;
8. The correction work shall be completed within 60 calendar days from the date of the enforcement notice, unless otherwise specifically approved by the Planning Official;
9. The requirements for a critical area dedication must be met pursuant to KZC 90.210; and
10. For repeat violators, the City is authorized to require monitoring and maintenance to extend beyond requirements of KZC 90.160 and funded by the violator.

(Ord. 4551 § 3, 2017)

90.210 Dedication and Maintenance of Critical Area and Buffer

1. Dedication
 - a. Consistent with law, the applicant shall dedicate development rights, air space, or grant a greenbelt protection or open space easement to the City to protect sensitive areas and their buffers;
 - b. Land survey information shall be provided by the applicant for this purpose in a format approved by the Planning Official;
 - c. The applicant shall record the dedication with the King County Recorder's Office as part of a subdivision recording or prior to issuance of a final inspection for all other developments;
 - d. The applicant shall provide proof of title ownership for the wetlands and buffers, including any compensatory mitigation areas; and
 - e. If the applicant does not hold title ownership to the mitigation site, proof of perpetual right to locate the mitigation on the subject property shall be provided.
2. Critical Area Boundaries Subject to Change – Critical area categories, ratings, classifications and boundaries are subject to change due to amendments to this chapter and/or physical changes to the subject property or vicinity. Subsequent development on a subject property may require a change in the boundary of critical area tract or easement.
3. Removal or Modification of Dedication
 - a. The Planning Director may authorize removal or modification to a recorded critical area dedication; provided, that removal or modification does not conflict with any requirement of this chapter or prior approval;
 - b. The applicant shall submit a request in writing along with documentation as to why the dedication should be removed or modified and how the change is consistent with this chapter, along with any required review fee; and

Kirkland Zoning Code

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Chapter 90 – CRITICAL AREAS: WETLANDS,
STREAMS, MINOR LAKES, FISH AND WILDLIFE
HABITAT CONSERVATION AREAS, AND
FREQUENTLY FLOODED AREAS

c. If the removal or modification is approved, the applicant shall record a document with King County Recorder's Office revising the dedication.

4. Maintenance of Critical Area and Buffer – In critical areas and their buffers, native vegetation shall not be removed without prior City approval. It is the responsibility of the property owner to maintain critical areas and their buffers by removing nonnative, invasive, and noxious plants in a manner that will not harm critical areas or their buffers.

(Ord. 4551 § 3, 2017)

90.215 Liability

Prior to issuance of a land surface modification permit or a building permit, whichever is issued first, the applicant shall enter into an agreement with the City that runs with the property, in a form acceptable to the City Attorney, indemnifying the City from any claims, actions, liability and damages to critical areas arising out of development activity on the subject property. The applicant shall record the agreement with the King County Recorder's Office.

(Ord. 4551 § 3, 2017)

90.220 Appeals

Any decision made by the Planning Official or Planning Director pursuant to this chapter may be appealed using, except as stated below, the applicable appeal provisions of Chapter 145 KZC. If a proposed development activity requires approval through Process IIA or IIB (as described in Chapters 150 and 152 KZC, respectively), any appeal of a classification, determination, or decision shall be heard as part of that other process.

(Ord. 4551 § 3, 2017)

90.225 Lapse of Approval

Any decision made by the Planning Official and Planning Director authorized by this chapter shall be subject to the lapse of approval provisions of KZC 145.115.

(Ord. 4551 § 3, 2017)

Chapter 141 – SHORELINE ADMINISTRATION

141.10 User Guide

No change to section

141.20 Administrative Responsibilities in General

No change to section

141.30 Review Required

1. The Shoreline Management Act (SMA) establishes three types of shoreline permits: substantial development permit, conditional use permit, and variance permit. Proposals for development and activities within shoreline jurisdiction may require more than one type of permit – or none.

Substantial development permits (SDPs) are required for all developments (unless specifically exempt under 173-27-040) that meet the legal definition of substantial development under WAC 90.58.030.

Conditional use permits (CUPs) allow greater flexibility in applying use regulations of a Shoreline Master Program. A CUP is needed if a proposed use is listed as a conditional use in a shoreline environment designation, or if the SMP does not address the use. A CUP must meet the CUP criteria found in WAC 173-27-160.

Variance permits are used to allow a project to deviate from an SMP's dimensional standards (e.g., setback, buffers, height, or lot coverage requirements). A variance proposal must meet variance criteria found in WAC 173-27-170.

12. Within the shoreline jurisdiction, as described in KZC [83.90](#), development shall be allowed only as authorized in a shoreline substantial [development permit](#), shoreline conditional use permit or shoreline variance permit, unless specifically exempted from obtaining such a permit under KZC [141.40](#). [A development that is exempt from a permit under Chapter 83 KZC may still need to obtain other development permits.](#)

23. Chapter [83](#) KZC specifies which permit is required. Enforcement action by the City or Department of Ecology may be taken whenever a [person](#) has violated any provision of the [Shoreline Management Act](#) or any City of Kirkland [shoreline master program](#) provision, or other regulation promulgated under the [Shoreline Management Act](#). Procedures for enforcement action and penalties shall be as specified in WAC [173-27-240](#) through [173-27-310](#), which are hereby adopted by this reference.

34. Where a proposed [development activity](#) encompasses shoreline and non-shoreline areas, a shoreline substantial [development permit](#) or other required permit must be obtained before

any part of the development, even the portion of the [development activity](#) that is entirely confined to ~~the upland~~ [Areas outside of shorelines jurisdiction](#), can proceed.

141.40 Exemption from Permit Requirements

1. General – Proposals identified under WAC [173-27-040](#) are exempt from obtaining a shoreline substantial [development permit](#); however, a shoreline variance or shoreline conditional use may still be required. Proposals that are not permitted under the provisions of Chapter [83](#) KZC shall not be allowed under an exemption. Applicants shall have the burden to demonstrate that the proposal complies with the requirements for the exemption sought as described under WAC [173-27-040](#). A proposal that does not qualify as an exemption may still apply for a shoreline substantial [development permit](#). [Applicants also have the burden of proof to show that exempt proposals meet the applicable standards in Chapter 83 KZC.](#)

2. Special Provisions – The following provides additional clarification on the application of the exemptions listed in WAC [173-27-040](#):

a. Residential Appurtenances

1) Normal appurtenances to a [single-family residence](#), referred to in Chapter [83](#) KZC as a [detached dwelling unit](#) on one (1) lot, are included in the permit exemption provided in WAC [173-27-040](#)(2)(g). For the purposes of interpreting this provision, normal appurtenances shall include those listed under WAC [173-14-040](#)(2)(g) as well as tool sheds, greenhouses, swimming pools, spas, [accessory dwelling units](#) and other [accessory](#) structures common to a [single-family residence](#) located [landward](#) of the OHWM and the perimeter of a [wetland](#).

2) Normal appurtenant structures to a [single-family residence](#), referred to in Chapter [83](#) KZC as a [detached dwelling unit](#) on one (1) lot, are included in the permit exemption provided in WAC [173-27-040](#)(2)(c) for structural and nonstructural shoreline stabilization measures. For the purposes of interpreting this provision, normal appurtenant shall be limited to the structures listed under WAC [173-14-040](#)(2)(g).

b. Normal Maintenance or Repair of Existing Structures or Developments – Normal maintenance or repair of existing structures or developments, including some replacement of existing structures, is included in the permit exemption provided in WAC [173-27-040](#)(2)(b). For the purposes of interpreting this provision, the following replacement activities shall not be considered a substantial development:

1) Replacement of an existing hard structural shoreline stabilization measure with a soft shoreline stabilization measure consistent with the provisions contained in KZC [83.300](#).

2) Replacement of pier or dock materials consistent with the provisions contained in KZC [83.270](#) through [83.290](#).

141.45 Developments not required to obtain shoreline permits or local reviews

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

a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

e. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

141.50 Pre-Submittal

No change to section

141.60 Applications

1. Who May Apply – Any [person](#) may, personally or through an agent, apply for a decision regarding property he/she owns, or primary proponent of a project under WAC 173-27-180(1).

2. How to Apply – The applicant shall file the following information with the Planning and Building Department:

a. A complete application, with supporting affidavits, on forms provided by the Planning and Building Department. Alternatively, the applicant may use the joint aquatic resources permit application form;

b. Any information or material that is specified in the provisions of Chapter [83](#) KZC; and

c. Any additional information or material that the [Planning Official](#) specifies at the pre-submittal meeting.

3. Fee – The applicant shall submit the fee established by ordinance with the application.

141.70 Procedures

1. Substantial Development Permit

- a. General

- 1) Applications for a shoreline substantial development permit shall follow the procedures for a Process I permit review pursuant to Chapter 145 KZC, except as otherwise provided in this section.

- 2) If the proposal that requires a substantial development permit is part of a proposal that requires additional approval through Process IIA or Process IIB under Chapter 150 KZC or Chapter 152 KZC, respectively, the entire proposal will be decided upon using that other process.

- 3) If the proposal that requires a substantial development permit is part of a proposal that requires additional approval through the Design Review Board (DRB) under Chapter 142 KZC, the design review proceedings before the DRB shall be conducted in accordance with Chapter 142 KZC.

- b. Notice of Application and Comment Period

- 1) In addition to the notice of application content established in Chapter 145 KZC, notice of applications for shoreline substantial development permits must also contain the information required under WAC 173-27-110.

- 2) The minimum notice of application comment period for shoreline substantial development permits shall be no fewer than 30 days. However, the minimum comment period for applications for shoreline substantial development permits for limited utility extensions and bulkheads, as described by WAC 173-27-120, shall be 20 days.

- c. Burden of Proof

- 1) WAC 173-27-140 establishes general review criteria that must be met.

- 2) WAC 173-27-150 establishes that a substantial development permit may only be granted when the proposed development is consistent with all of the following:

- a) The policies and procedures of the Shoreline Management Act;

- b) The provisions of Chapter 173-27 WAC;

- c) Chapter 83 KZC.

- d. Decision

1) ~~At the time of a final decision~~After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the Planning Official shall mail a copy of the decision, staff advisory report and permit data transmittal sheet to the applicant and Department of Ecology, pursuant to RCW 90.58.140 and WAC 173-27-130. The permit decision shall be sent to the Department of Ecology by return receipt requested mail. The permit shall state that construction pursuant to a permit shall not begin or be authorized until 21 days from the date that the Department of Ecology received the permit decision from the City as provided in RCW 90.58.140; or until all review proceedings are terminated if the proceedings were initiated within 21 days from the date of filing as defined in RCW 90.58.140. "Date of filing" is the date that the Department of Ecology received the City's permit decision. The Department of Ecology must notify the City and the applicant of the actual date of filing.

2) When the City issues a permit decision on a substantial development permit along with a shoreline conditional use permit and/or a shoreline variance, the date of filing is the ~~postmarked~~ date that the ~~City mails the permit decision to the~~ Department of Ecology transmits its decision as provided in WAC 173-27-200.

3) An appeal of a shoreline substantial development permit shall be to the State Shorelines Hearings Board and shall be filed within 21 days of the date of filing of the City's permit decision to the Department of Ecology as set forth in RCW 90.58.180.

e. Effect of Decision – For shoreline substantial development permits, no final action or construction shall be taken until the termination of all review proceedings initiated within 21 days after the filing date which is the date that the Department of Ecology received the permit decision from the City or unless otherwise noted in this section.

f. Complete Compliance Required

1) General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter authorized by that approval.

2) Exception – Subsequent Modification – WAC 173-27-100 establishes the procedure and criteria under which the City may approve a revision to a permit issued under the Shoreline Management Act and the shoreline master program.

g. Time Limits – Construction and activities authorized by a shoreline substantial development permit are subject to the time limitations of WAC 173-27-090.

2. Conditional Use Permits

a. General – Applications for a shoreline conditional use permit shall follow the procedures for a Process IIA permit review pursuant to Chapter 150 KZC, except as otherwise provided in KZC Chapters 125 PUD, 130 Rezones and 15-65 for Master Plans~~this section.~~. If the proposal that requires a conditional use permit is part of a proposal that requires additional approval through a Process IIB, the entire proposal will be decided upon using that process.

b. Notice of Application and Comment Period

1) In addition to the notice of application content established in Chapter [150](#) KZC, notice of applications for shoreline conditional use permits must also contain the information required under WAC [173-27-110](#).

2) The minimum notice of application comment period for shoreline conditional use permits shall be no fewer than 30 days.

c. Notice of Hearing – The [Planning Official](#) shall [distribute](#) notice of the public hearing at least 15 calendar days before the public hearing.

d. Burden of Proof

1) WAC [173-27-140](#) establishes general review criteria that must be met.

~~2) WAC [172.27-150](#) establishes general review criteria that must be met for substantial development permits.~~

~~32) WAC [173-27-160](#) establishes criteria that must be met for a conditional use permit to be granted.~~

~~43) In addition, the City will not issue a conditional use permit for a use which is not listed as allowable in the [shoreline master program](#) unless the applicant can demonstrate that the proposed use has impacts on nearby uses and the environment essentially the same as the impacts that would result from a use allowed by the [shoreline master program](#) in that shoreline environment.~~

e. Decision

~~1) ~~Once the City has approved~~After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, a conditional use permit it will be forwarded to the State Department of Ecology for its review and approval/disapproval jurisdiction under WAC [173-27-200](#).~~

2) The permit shall state that construction pursuant to a permit shall not begin or be authorized until 21 days from the date that the Department of Ecology transmits its decision as provided in Chapter [173-200](#) WAC; or until all review proceedings are terminated if the proceedings were initiated within 21 days from the filing date as defined in RCW [90.58.140](#).

3) Appeals of a shoreline conditional use permit shall be to the State Shoreline Hearings Board and shall be filed within 21 days of the filing date which is the postmarked date that the City mailed the permit decision to the Department of Ecology, as set forth in RCW [90.58.180](#).

f. Effect of Decision – For shoreline conditional use permits, no final action or construction shall be taken until the termination of all review proceedings initiated within 21 days from the date Department of Ecology transmits its decision on the shoreline conditional use permit.

g. Complete Compliance Required

1) General – Except as specified in subsection (2)(g)(2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter in order to do everything authorized by that approval.

2) Exception – Subsequent Modification – WAC [173-27-100](#) establishes the procedure and criteria under which the City may approve a revision to a permit issued under the [Shoreline Management Act](#) and this chapter.

h. Time Limits – Construction and activities authorized by a shoreline conditional use permit are subject to the time limitations under WAC [173-27-090](#).

3. Variances

a. General – Applications for a shoreline variance permit shall follow the procedures for a Process IIA permit review pursuant to Chapter [150](#) KZC, except as otherwise provided in this section. If the proposal that requires a shoreline variance is part of a proposal that requires additional approval through a Process IIB, the entire proposal will be decided upon using that other process.

b. Notice of Application and Comment Period

1) In addition to the notice of application content established in Chapter [150](#) KZC, notice of applications for shoreline variance permits must also contain the information required under WAC [173-27-110](#).

2) The minimum notice of application comment period for shoreline variance permits shall be no fewer than 30 days.

c. Notice of Hearing – The [Planning Official](#) shall [distribute](#) notice of the public hearing at least 15 calendar days before the public hearing.

d. Burden of Proof

1) WAC [173-27-140](#) establishes general review criteria that must be met for shoreline variances.

2) WAC 172.27-150 establishes general review criteria that must be met for substantial development permits.

3) WAC [173-27-170](#) establishes criteria that must be met for a variance permit to be granted.

e. Decision

1) Approval by Department of Ecology. Once the City has approved a variance permit and after all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, it will be forwarded to the State Department of Ecology for its review and approval/disapproval jurisdiction under WAC [173-27-200](#).

2) The permit shall state that construction pursuant to a permit shall not begin or be authorized until 21 days from the date that the Department of Ecology transmits its decision as provided in WAC [173-27-200](#); or until all review proceedings are terminated if the proceedings were initiated within 21 days from the filing date as defined in RCW [90.58.140](#).

3) Appeals of a shoreline variance permit shall be to the State Shoreline Hearings Board and shall be filed within 21 days of the filing date which is the ~~postmarked~~ date that the ~~City mailed the permit decision to the~~ Department of Ecology transmits its decision, as set forth in RCW [90.58.180](#).

f. Effect of Decision – For shoreline variance permits, no final action or construction shall be taken until the termination of all review proceedings initiated within 21 days from the date the Department of Ecology transmits its decision on the shoreline variance permit.

g. Complete Compliance Required

1) General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter as authorized by that approval.

2) Exception – Subsequent Modification – WAC [173-27-100](#) establishes the procedure and criteria under which the City may approve a revision to a permit issued under the [Shoreline Management Act](#) and the [shoreline master program](#).

h. Time Limits – Construction and activities authorized by a shoreline variance permit are subject to the time limitations under WAC [173-27-090](#).

45. Request for Relief from Standards

a. General – When shoreline stabilization measures intended to improve ecological functions result in shifting the OHWM landward of the pre-modification location, the City may propose to grant relief from additional or more restrictive standards and use regulations resulting from the shift in OHWM, such as but not limited to an increase in shoreline jurisdiction, shoreline setbacks, or lot coverage. Relief may apply to both the subject property and upland lots.

b. Burden of Proof – Relief may be granted when:

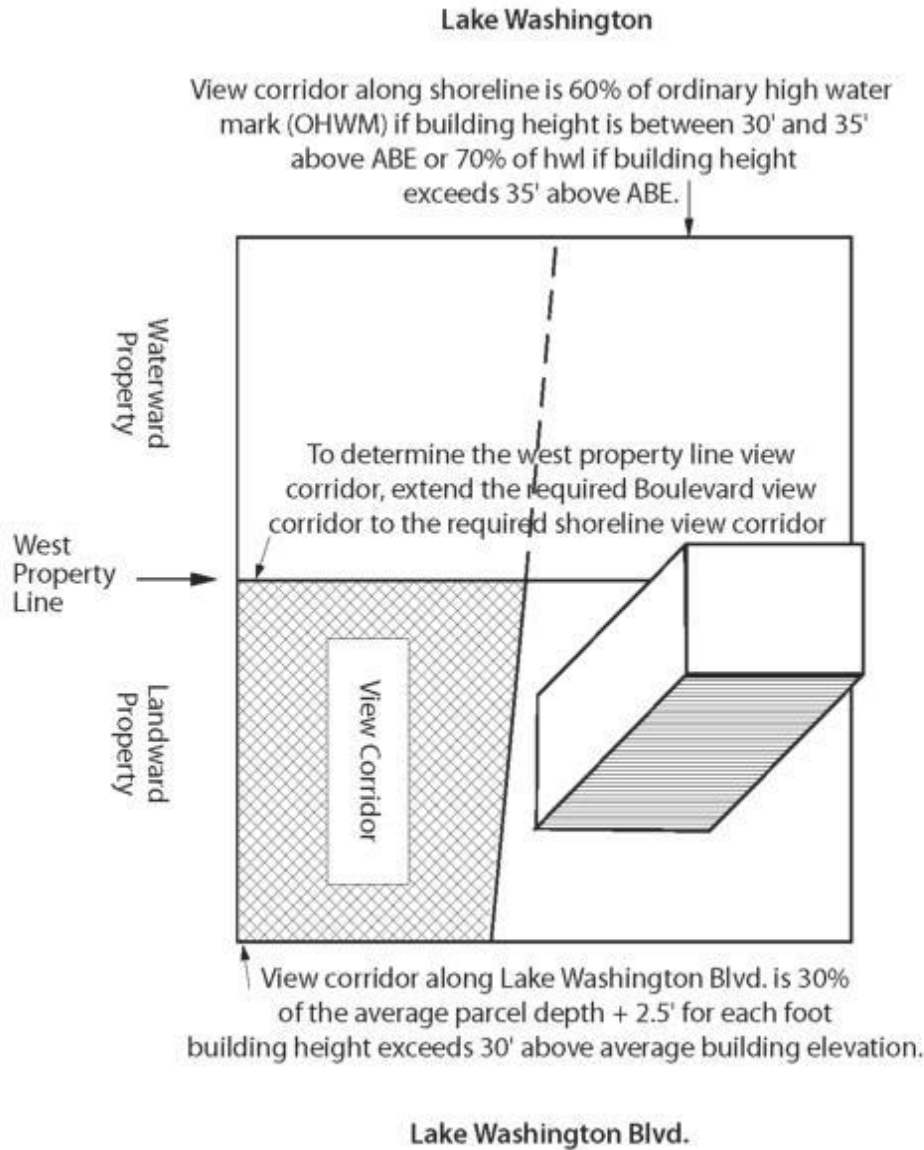
1) The proposed relief is the minimum necessary to relieve the hardship;

2) The restoration project will result in a net environmental benefit; and

3) The proposed relief is consistent with the objectives of the City's restoration plan and [shoreline master program](#).

c. Decision – Approval by Department of Ecology – Once the City has approved a permit it will be forwarded to the State Department of Ecology for its review and approval/disapproval. The application review must occur during the Department of Ecology's normal review of a shoreline substantial [development permit](#), conditional use permit, or variance. If a permit is not required for the restoration project, the City shall submit separate application and necessary supporting information to the Department of Ecology.

Plate 27A Shoreline View Corridor



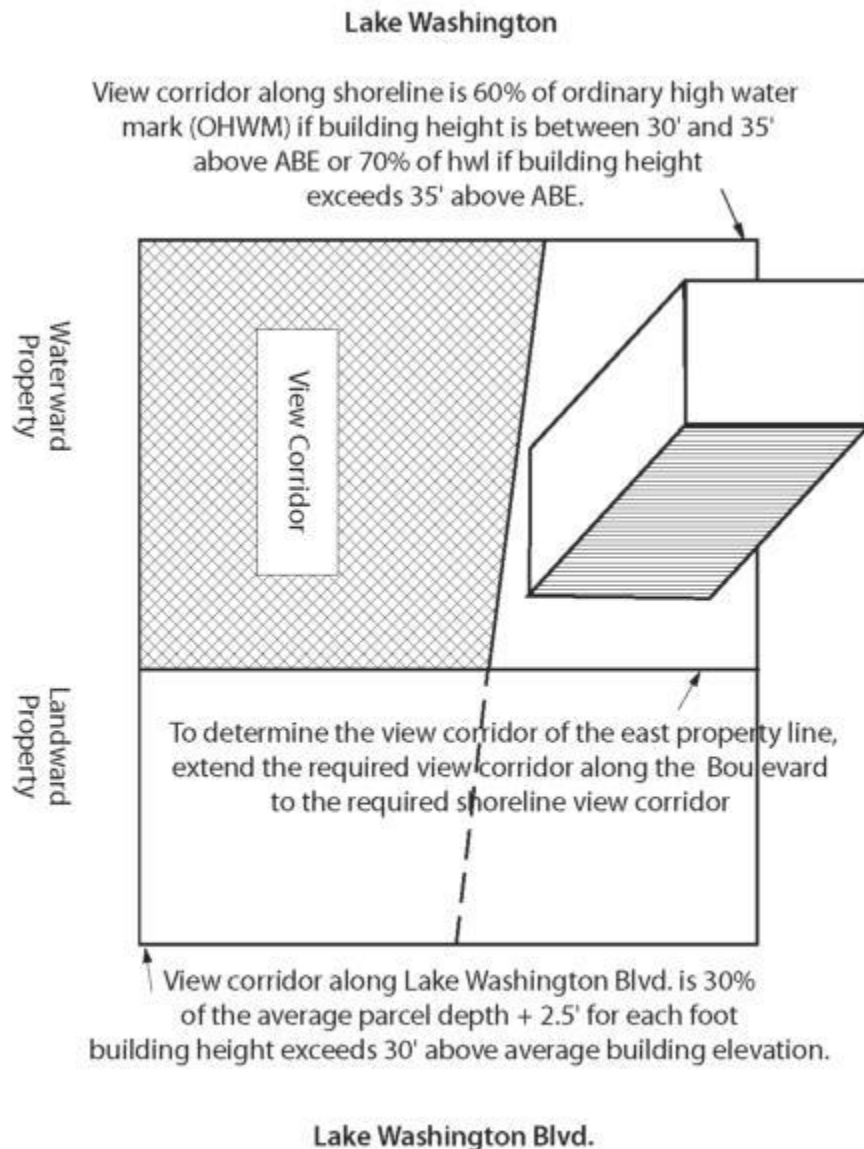
Not to Scale

Required Shoreline View Corridor for Properties that only abut Lake Washington Boulevard

The *required shoreline view corridor across the property* shall be determined by taking the view corridor required along Lake Washington Boulevard (30 percent of the average parcel width plus 2.5 feet for each foot the building height exceeds 30 feet above average building elevation) and then extending the view corridor across the landward property and the waterward property to the shoreline to provide a shoreline view corridor of 60 percent if building height is greater than 30 feet, but equal to or less than 35 feet or 70 percent if building height is greater than 35 feet (see diagram above).

(Ord. 4252 § 1, 2010; Ord. 3810 § 1, 2001)

Plate 27B Shoreline View Corridor



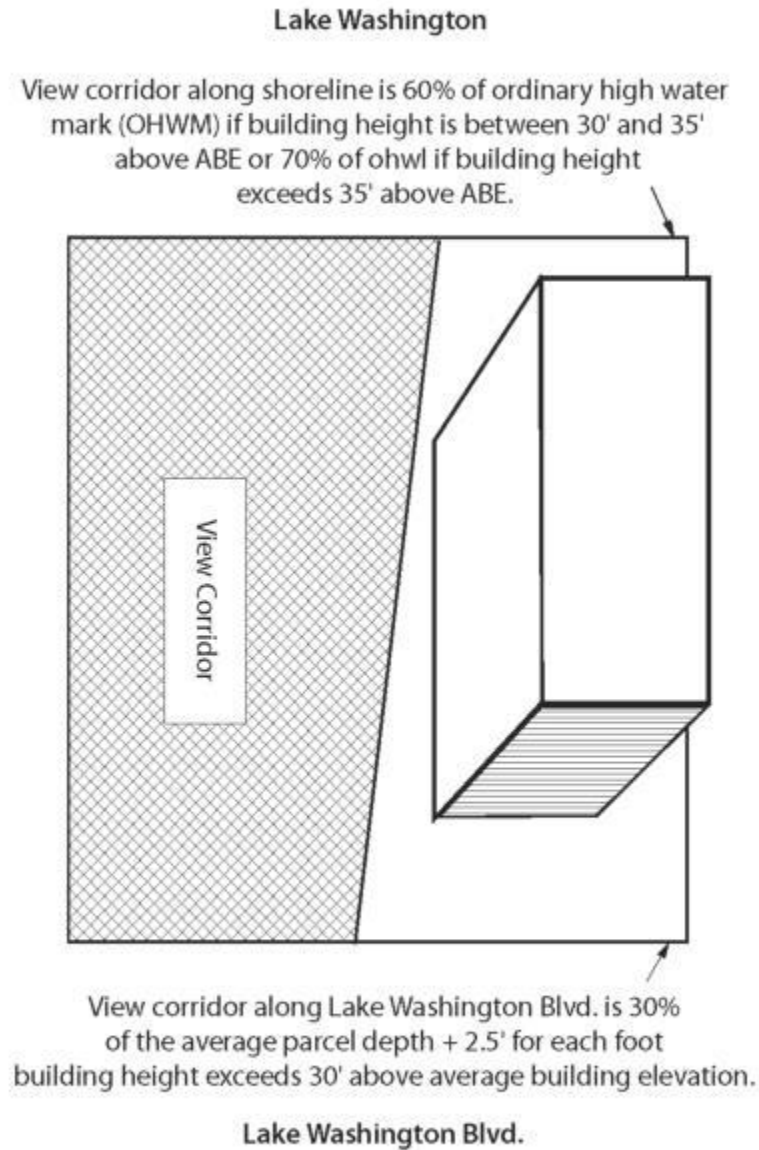
Not to Scale

Required Shoreline View Corridor for Properties that only abut Lake Washington Boulevard

The *required shoreline view corridor across the property* shall be determined by taking the view corridor required along Lake Washington Boulevard (30 percent of the average parcel width plus 2.5 feet for each foot the building height exceeds 30 feet above average building elevation) and then extending the view corridor across the landward property and the waterward property to the shoreline to provide a shoreline view corridor of 60 percent if building height is greater than 30 feet, but equal to or less than 35 feet or 70 percent if building height is greater than 35 feet (see diagram above).

(Ord. 4252 § 1, 2010; Ord. 3810 § 1, 2001)

Plate 27C Shoreline View Corridor



Not to Scale

Required Shoreline View Corridor for Properties that only abut Lake Washington Boulevard

The *required shoreline view corridor across the property* shall be determined by taking the view corridor required along Lake Washington Boulevard (30 percent of the average parcel width plus 2.5 feet for each foot the building height exceeds 30 feet above average building elevation) and then extending the view corridor across the property to the shoreline to provide a shoreline view corridor of 60 percent if building height is greater than 30 feet, but equal to or less than 35 feet or 70 percent if building height is greater than 35 feet (see diagram above).

(Ord. 4252 § 1, 2010; Ord. 3810 § 1, 2001)

Plate 47: Establishing average pier length/navigation line

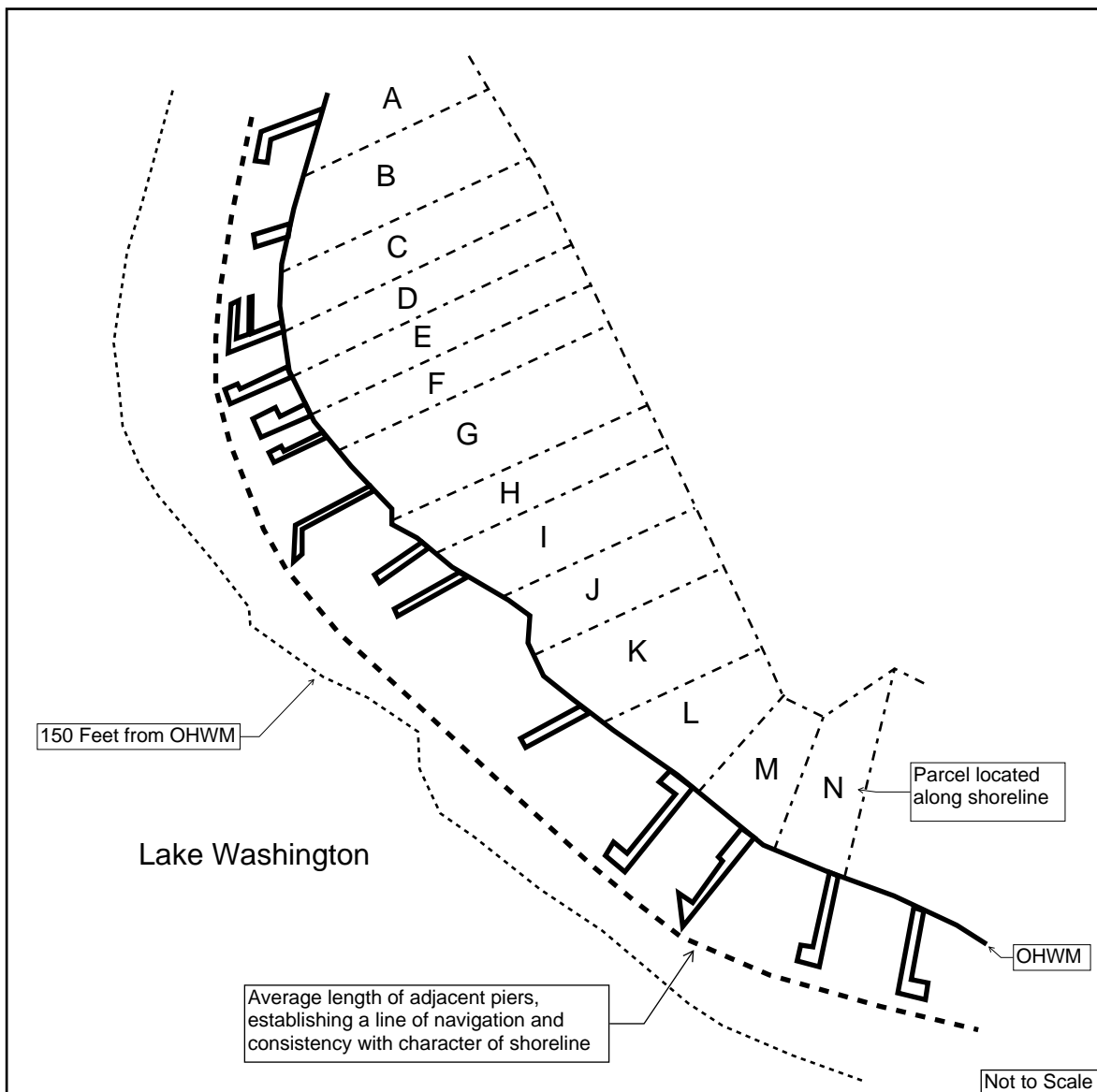
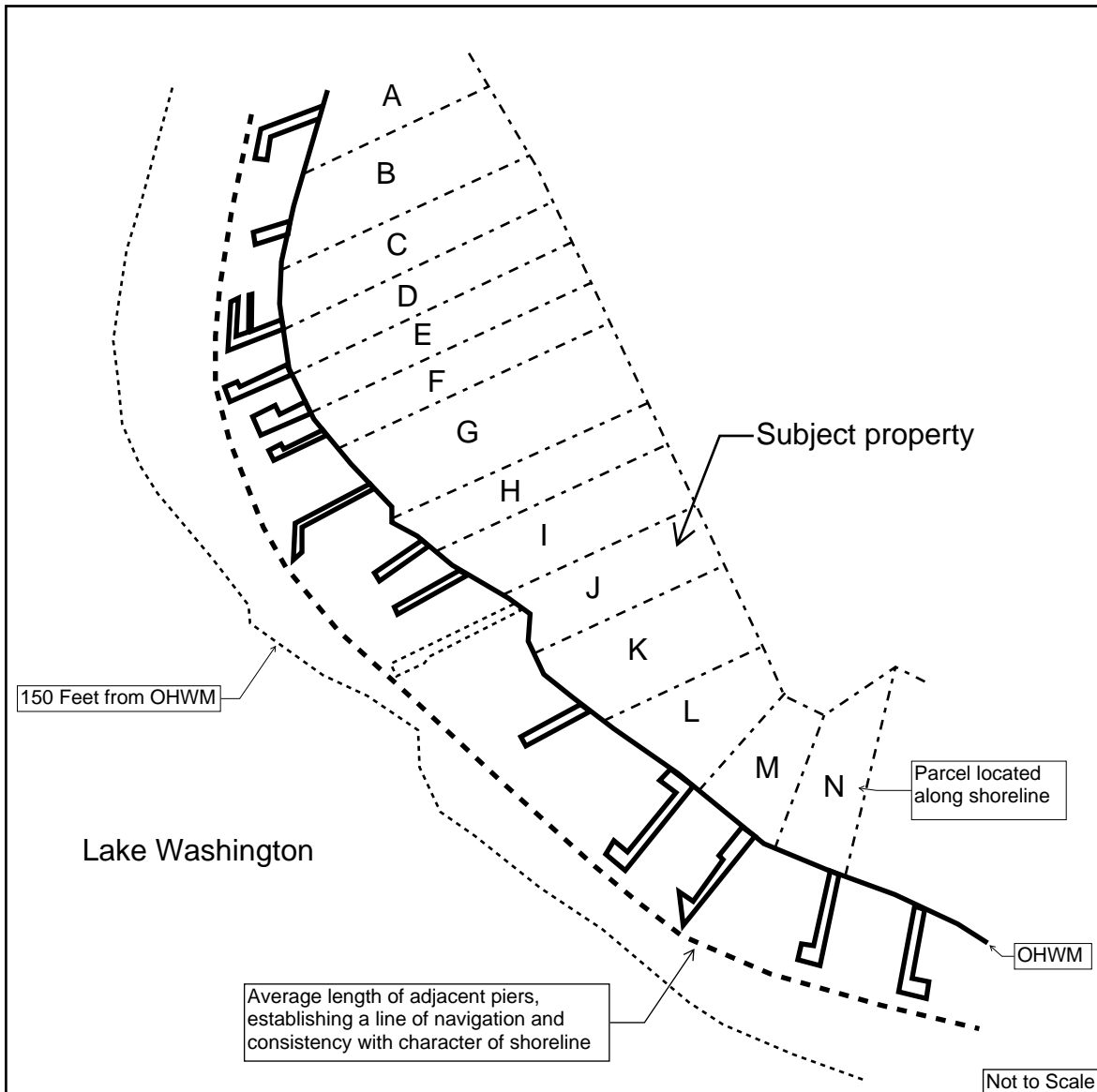


Plate 47 is intended to clarify how the average pier length of an adjacent shoreline parcel influences the length of a proposed pier. The plate illustrates the location of several single-family piers located along the shoreline of Lake Washington. The image identifies the maximum length of 150 feet allowed under KZC 83.270.4, and the average length of the piers along this section of the shoreline. Staff has utilized this process in establishing a line of navigation on the waterward side of the piers in the area. By determining the average length of the neighboring piers, a property can identify the length of a pier that may be proposed that will be consistent with the length standards of 83.270 and Shoreline Area Policy SA-11.1 in the Comprehensive Plan. A pier length proposed to exceed 150 feet measured waterward of the OHWM, shall be reviewed through a Shoreline Variance.

Plate 48A - How to determine the allowable length of a single-family pier (83.270.4).



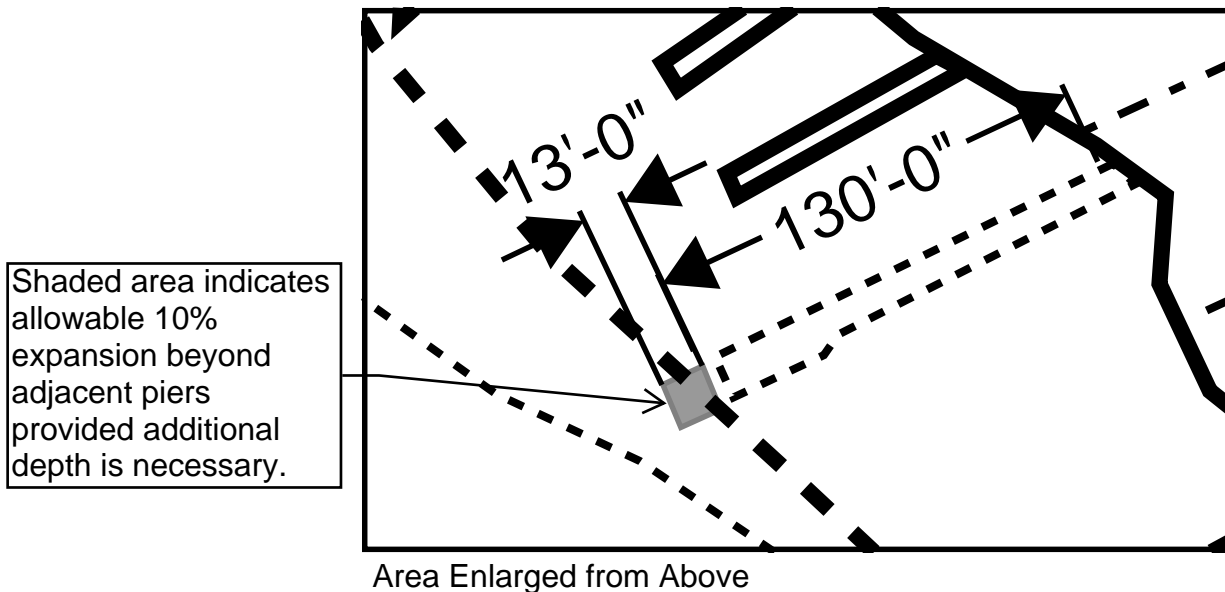
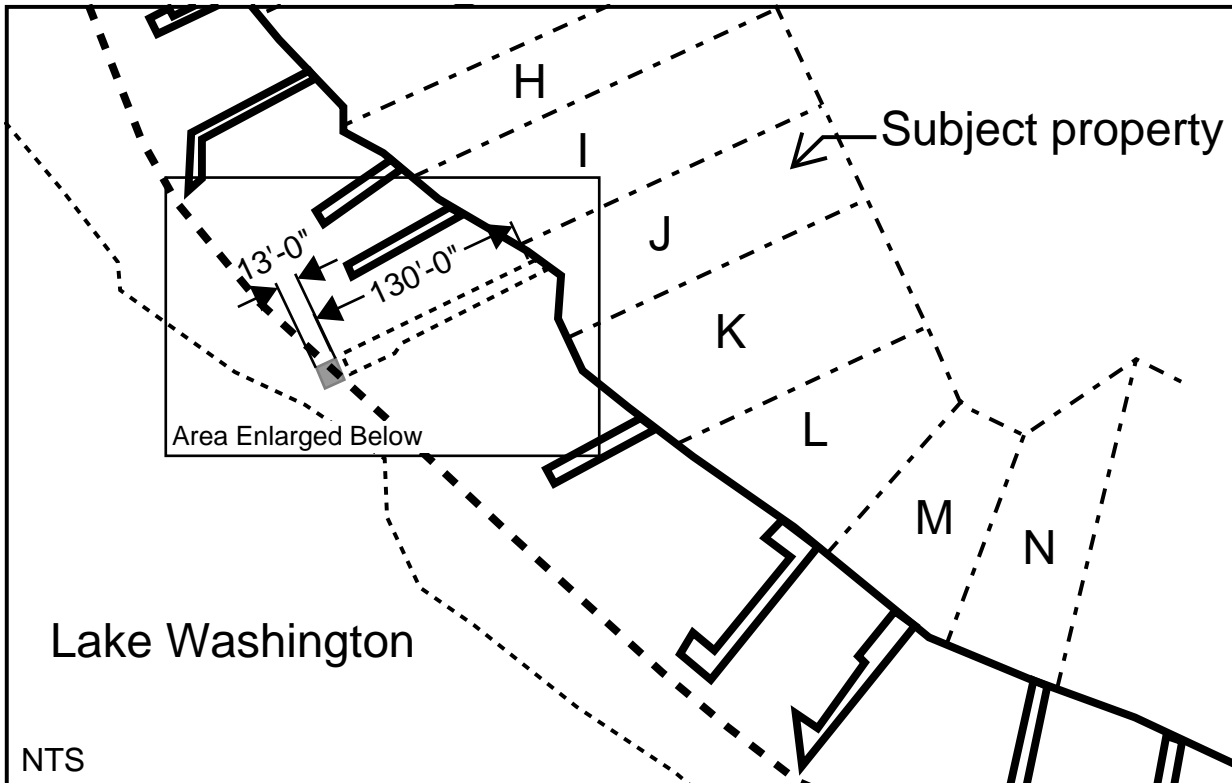
Parcel 'J' needs to establish the allowable length a pier may extend under the development regulations of section 83.270. Since the 150 foot measurement from the OHWM exceeds the average length of the adjacent neighboring piers, the lesser length applies. Parcel 'J' may propose a pier length as shown, aligning with the average length of the adjacent piers. The pier is subject to all other dimensional standards, including but not limited to width, area, height.

A proposal beyond the average pier length line would require the applicant identify the length will not have an adverse impact on navigation and the length is necessary due to inadequate water depth.

A proposed pier beyond the 150 foot measurement would be subject to a Shoreline Variance.

Plate 48B - How to determine the maximum length a pier may extend beyond existing adjacent piers (KZC 83.270.4).

An additional 10% of the average length may be proposed if water depth is required (KZC83.270.4). In this example, the average adjacent pier lengths equals 130 feet. The parcel may propose up to 13.0 feet additional length if necessary to achieve water depth.



PUBLICATION SUMMARY
OF ORDINANCE NO. O-4701

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING THE KIRKLAND ZONING CODE (ORDINANCE 3719 AS AMENDED) INCLUDING CHAPTERS 5, 83, 90, 141, AND 180, AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. CAM19-00026.

SECTION 1. Chapters 5, 83, 90, 141, and 180 of the Kirkland Zoning Code are amended and incorporated by reference.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Provides that the effective date of the ordinance is affected by the disapproval jurisdiction of the Houghton Community Council.

SECTION 4. Authorizes the publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as 14 days after final approval and adoption by the Washington State Department of Ecology.

SECTION 5. Directs the City Clerk to certify and forward a complete certified copy of this ordinance to the King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ___ day of _____, 2019.

I certify that the foregoing is a summary of Ordinance O-4701 approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk



CITY OF KIRKLAND
PLANNING AND BUILDING DEPARTMENT
123 FIFTH AVENUE, KIRKLAND, WA 98033
425.587.3600 - www.kirklandwa.gov

MEMORANDUM

Date: October 24, 2019

To: Kurt Triplett, City Manager

From: Adam Weinstein, Planning & Building Director
Jeremy McMahan, Deputy Planning and Building Director
Dawn Nelson, Planning Manager
Stephanie Croll, Senior Assistant City Attorney

Subject: ADOPTION OF INTERIM ORDINANCE TO ALLOW FOR COUNCIL REVIEW OF AMENDMENTS TO KIRKLAND ZONING CODE (KZC) 90.180 (REASONABLE USE EXCEPTION)

RECOMMENDATION

City Council should provide feedback on the code amendment concepts described in this memo related to determining what is a “reasonable use” on a property encumbered by wetlands or other critical environmental resources. If the concepts are generally acceptable, City Council should adopt an Interim Ordinance (Attached) allowing for City Council review and approval of amendments to the reasonable use provisions of the Kirkland Zoning Code (KZC) without the involvement of the Planning Commission. Staff would return on November 19 with an ordinance that could be considered for adoption, following a public hearing held by City Council.

If the Council desires additional outreach and refinement of the code amendment concepts, staff would return at a later date with different options, under a standard code amendment review process where Planning Commission holds a public hearing and makes a recommendation to Council (taking into account a recommendation from the Houghton Community Council), and then Council takes final action.

BACKGROUND

The amendments to the City’s reasonable use regulations that are presented in this memo comprise one of the 19 miscellaneous code amendment projects currently on the list that the Planning and Building Department completes as time allows. These particular amendments were requested to be prioritized by the City Manager, with adoption scheduled for 2019. The potential amendments could support the City Work Program objectives of both the Sustainability Master Plan and Housing Strategy Plan implementation.

Under the Washington State Growth Management Act, all cities and counties in the State are required to adopt regulations to manage development in areas with critical areas (which include streams, wetlands, aquifer recharge areas, frequently flooded

areas, geologically hazardous areas, and other sensitive areas). In Kirkland, these regulations are found in KZC Chapters 85 (Geologically Hazardous Areas) and 90 (Wetlands, Streams, Minor Lakes, Fish and Wildlife Habitat Conservation Areas, and Frequently Flooded Areas), and include buffer requirements around most sensitive areas. These buffer requirements, along with the protection of the critical areas themselves, sometimes make it difficult to accommodate development, particularly on smaller properties, even though the KZC includes provisions for allowing a reduction of buffer size if certain criteria are met.

Courts have ruled that the taking of private property occurs when land use regulations deny a property owner all – or nearly all – of the economic use of his or her property. In such a case, the local government must pay compensation to the affected property owner, which is usually the fair market value of the property unduly restricted by the regulations. As a result, the City of Kirkland (along with many other local governments) has established a “reasonable use” exception, under which the City can grant relief from code requirements when compliance makes it infeasible to develop a “reasonable use.” The City’s reasonable use exception is found in [KZC 90.180](#), which establishes the process for reasonable use applications, along with criteria for evaluating and approving applications, and elements of the development regulations that may be modified to accommodate development on a site that is highly constrained by sensitive areas. The process for reasonable use applications identified in KZC 90.180 is Process I, which includes a public notice of the proposed development and Planning Director approval of the application if specific criteria are met.

KZC 90.180(5)(c) establishes a maximum area of disturbance on an individual property that may be disturbed to accommodate a reasonable use. This square footage allowance ranges from 50 percent of the site (for sites under 6,000 square feet), to 3,000 square feet (for sites more than 6,000 square feet and less than 30,000 square feet), to between 3,000 square feet and 10 percent of the lot area (for sites over 30,000 square feet). Most single-family residential development sites in Kirkland fall into the middle category (sites more than 6,000 square feet and less than 30,000 square feet), and thus are eligible for a maximum 3,000 square feet of disturbed area.

These maximum square footage allowances were adopted by the City Council in 2007, with the intent of clarifying the criteria used to ensure a reasonable use application is constrained in size and minimizes impacts to critical areas. Since that time, the 2007 amendments have helped staff and applicants reach agreement on what constitutes a reasonable use on properties of different shapes and sizes. In addition, in 2017, the provision for Hearing Examiner approval of applications exceeding the maximum square footage allowances in the code was removed and was replaced by a provision allowing for approval of more site disturbance than called for in the code if there are “unique circumstances.” **Attachment 1** shows the approved and in-progress reasonable use applications since 1999.

Since 1999, the average size of single-family houses approved under the City's reasonable use exception was approximately 3,100 square feet, larger than the median size of a completed single-family house in 2018 (2,386 square feet), according to the U.S Census.¹ The relatively large size of houses constructed under the reasonable use exception suggest that the allowances in KZC 90.180 should be revisited. Often it is the case that the market value of such environmentally constrained land reflects the restrictions and can be purchased for significantly less. This gives rise to the concern that the development expectations of some property owners who have acquired property after it has already been encumbered by critical area regulations, and with knowledge of those restrictive regulations, may not be reasonable in light of the fact that many such restrictive regulations have been in place in Kirkland for over 20 years in basically their current form. The key policy question for the Council to consider is whether to limit the size of what can be built as a "reasonable use."

PROPOSED AMENDMENTS

The proposed code amendments encompass changes to KZC 90.180 to accomplish two key objectives:

1. *Reflect case law concerning what constitutes a taking.* In *Penn Central Transportation Co. v. New York City* (1978), a seminal regulatory takings case, the U.S. Supreme Court established three criteria for determining whether a regulatory taking has occurred: a) the regulation's economic impact on the property; b) the extent of the regulation's interference with investment-backed expectations; and c) the character of the government regulation (i.e., generally, whether it is in the public interest). Case law shows that even if the regulation has a substantial economic impact on the value of the property, the regulation may still be deemed constitutional if the second and third Penn Central criteria outweigh the economic impact. The investment-backed expectations criterion was further elucidated by the Supreme Court in its ruling in a 2001 case, *Palazzolo v. Rhode Island*, which affirmed that the regulations in place at the time a property owner acquires the property should help shape the reasonableness of the investment-backed expectations. In other words, a determination of what is a "reasonable use" for a property already encumbered by restrictive critical area regulations should take into account whether the property owner should have had reasonably considered the economic impact of the restrictions in-place at the time of purchase. The proposed amendments clarify this point, and make explicit the three-pronged test.
2. *Reduce development allowances for reasonable use.* The proposed amendments to KZC 90.180 would also further restrict the development allowances established in 2007. The allowed area of site disturbance (which expands or contracts based on the size of the property, as described above)

¹ U.S Census, 2019. Characteristics of New Housing. Website: <https://www.census.gov/construction/chars/highlights.html>.

would be retained, but a new maximum building footprint standard would be established, and this standard would be the same for all lot sizes (with some discretionary authority to allow slightly larger footprints under unique circumstances, such as properties that are very large). Under a reasonable use exception, a single-family residence could have a footprint no larger than 750 square feet (not including a maximum 250-square-foot garage), meaning that a typical two-story house would comprise no more than 1,500 square feet above-ground (not including the garage), roughly equivalent to the maximum size of a cottage housing unit established under KZC 113. The 750-square-foot footprint limitation would also apply to commercial uses established under the reasonable use exception in the KZC.² The intent is that maximum building size be more reflective of reasonable investment-backed expectations than is apparent in the current code. The potential new size limitations are proposed in the context of the City's priority of creating smaller, more affordable housing throughout the City.

Due to the expedited nature of the proposed amendments, adoption in 2019 would mean that the City Council would need to adopt an interim ordinance (Attached) on November 6, and then hold a public hearing and adopt the proposed code amendments on November 19 or December 10.

Attachments

1. Reasonable Use Applications, 1999-2019
2. Interim Ordinance

² KZC 90.180 defines a reasonable commercial use as including office uses (excluding veterinary offices with outdoor facilities) and limited retail uses (excluding uses like restaurants and car washes). No commercial reasonable use applications have been approved in the City, based on staff review of historical files.

Attachment 1
Reasonable Use Applications, 1999-2019

Approved						
Case	Address	Approved	Lot SF	Disturbed Area SF	House SF	FAR
ZON98-00021	220 10TH ST S	4/6/1999	21,521	3,396	3,333	15%
ZON05-00011	9619-21 NE 38TH ST	5/2/2006	27,547	5,000	4,294	16%
ZON05-00016	9518 SLATER AVE NE	5/2/2006	7,932	3,558	3,334	42%
ZON05-00033	9118 126TH AVE NE	9/5/2006	35,000	6,882	2,701	8%
ZON07-00028	247 SLATER ST S	6/20/2008	17,370	2,984	3,544	20%
ZON08-00003	9010 126TH AVE NE	11/18/2008	14,159	3,002	3,669	26%
ZON08-00013	10243 NE 132ND ST	1/14/2009	12,196	2,976	2,600	21%
ZON09-00008	355 SLATER ST S	8/5/2010	19,204	3,000	3,364	18%
ZON09-00009	313 SLATER ST S	6/21/2010	19,566	3,000	3,196	16%
ZON09-00010	351 SLATER ST S	8/5/2010	14,264	3,000	3,462	24%
SAR12-01483	N/A	6/3/2013	N/A	3,000	N/A	N/A
SAR14-00665	9105 128TH AVE NE	7/17/2015	36,658	3,000	2,930	8%
SAR14-01569	8800 NE 117TH PL	6/1/2015	7,288	2,942	2,715	37%
SAR16-00832	1805 2ND ST	12/29/2016	12,254	3,000	2,624	21%
SAR16-00833	1809 2ND ST	12/29/2016	12,254	3,000	2,624	21%
SAR16-00862	1813 2ND ST	12/29/2016	12,254	3,000	2,624	21%
SAR16-01828 *	988 9TH AVE S	1/22/2018	25,501	3,000	3,561	14%
SAR17-00156 *	11718 90TH AVE NE	12/19/2018	5,260	2,630	2,468	47%
SAR17-00627	11807 89TH AVE NE	8/14/2018	6,140	3,000	3,059	50%
SAR18-00254	11097 CHAMPAGNE PT RD NE	4/11/2019	12,853	2,991	2,869	22%
					AVG:	3,104

Notes:

SF = square feet; FAR = floor area ratio

* Structure under construction

In Progress						
Case	Address	Applied	Lot SF	Disturbed Area SF	House SF	FAR
SAR13-01615	NOT ADDRESSED	10/17/2013	4,872	1,505	UNK	-
SAR18-00654	10661 FORBES CREEK DR	10/5/2018	41,962	4,192	3,522	8%
SAR19-00213	8802 NE 117TH PL	4/16/2019	9,269	2,997	2,557	28%
SAR19-00521	13841 62ND AVE NE	9/11/2019	7,200	2,999	UNK	-
SAR19-00591	11662 91ST PL NE	10/9/2019	5,743	2,870	UNK	-

Notes:

SF = square feet; FAR = floor area ratio

ORDINANCE O-4702

AN INTERIM ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE, ADOPTING INTERIM ZONING REGULATIONS FOR THE REVIEW PROCESS FOR CITY COUNCIL INITIATED AMENDMENTS TO CHAPTER 90 OF THE KIRKLAND ZONING CODE (KZC) RELATING TO REASONABLE USE EXCEPTIONS

1 WHEREAS, on March 22, 2019, the City Council adopted
2 Resolution R-5368, adopting the 2019-21 Planning Work Program,
3 which includes "Miscellaneous Code Amendments," one of which is
4 amendments to the City's reasonable use regulations; and
5

6 WHEREAS, Comprehensive Plan Policies E-1.2, E-1.3, E-1.6, E-
7 1.12, and E-3.2, among others, seek to shape private development to
8 protect the City's geologic, habitat, and hydrological functions; and
9

10 WHEREAS, due to the workload of the Planning Commission
11 and the desire by City Council to expeditiously amend the City's
12 reasonable use regulations in order to protect critical environmental
13 resources, it would be beneficial to have the City Council conduct the
14 review of City Council-initiated amendments to the text of the Zoning
15 Code without receiving a recommendation from the Planning
16 Commission; and
17

18 WHEREAS, the City Council finds it in the public interest to
19 adopt an interim zoning regulation which will enable the City Council to
20 carefully and thoroughly review Council-initiated amendments to the
21 Zoning Code; and
22

23 WHEREAS, the City has the authority to adopt interim zoning
24 regulations pursuant to RCW 35A.63.220 and RCW 36.70A.390.
25

26 NOW, THEREFORE, the City Council of the City of Kirkland do
27 ordain as follows:
28

29 Section 1. As an interim zoning regulation, for amendments to
30 Chapter 90 of the Kirkland Zoning Code relating to reasonable use
31 exceptions, the City Council shall hold a public hearing using the process
32 described in KZC 160.40 for notice; KZC 160.45 for staff report; KZC
33 160.55, 160.65, and 160.70 for public hearing; and KZC 160.90 for
34 publication and effect. The Planning Official shall notify the Planning
35 Commission about the proposed amendment to the text of the Zoning
36 Code at least 14 days before the public hearing.
37

38 Section 2. The interim regulations imposed by this ordinance
39 shall continue in effect for a period of up to one hundred eighty days
40 from the effective date of this Ordinance, unless repealed, extended, or
41 modified by City Council.
42

43 Section 3. To the extent the subject matter of this ordinance is
 44 subject to the disapproval jurisdiction of the Houghton Community
 45 Council, this ordinance shall become effective within the Houghton
 46 Community Municipal Corporation only upon approval of the Houghton
 47 Community Council or the failure of said Community Council to
 48 disapprove this ordinance within 60 days of the date of the passage of
 49 this ordinance.

50
 51 Section 4. Except as provided in Section 3, this ordinance shall
 52 be in full force and effect five days from and after its passage by the
 53 Kirkland City Council and publication, pursuant to 1.08.017 Kirkland
 54 Municipal Code, in the summary form attached to the original of this
 55 ordinance and by this reference approved by the City Council, as
 56 required by law.

57
 58 Section 5. A complete copy of this ordinance shall be certified
 59 by the City Clerk, who shall then forward the certified copy to the King
 60 County Department of Assessments.

61
 62 Passed by majority vote of the Kirkland City Council in open
 63 meeting this ___ day of _____, 2019.

64
 65 Signed in authentication thereof this ___ day of _____, 2019.
 66

 Penny Sweet, Mayor

Attest:

 Kathi Anderson, City Clerk

Approved as to Form:

 Kevin Raymond, City Attorney



CITY OF KIRKLAND
Planning and Building Department
123 5th Avenue, Kirkland, WA 98033
425.587.3600- www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager
From: Dawn Nelson, Planning Manager
Date: October 22, 2019
Subject: ARCH 2020 ADMINISTRATIVE BUDGET/WORK PROGRAM, FILE PLN19-00001

RECOMMENDATION

Staff recommends that the City Council:

1. Receive an update from Lindsay Masters, Executive Manager of A Regional Coalition for Housing (ARCH), on the processes that ARCH has undertaken over the past year to evaluate its organizational capacity to administer the myriad of affordable housing programs of its member jurisdictions, with a specific focus on long-term monitoring of affordable housing units; and
2. Adopt a resolution approving the 2020 (ARCH) Work Program and Administrative Budget.

BACKGROUND DISCUSSION

ARCH engaged a consultant, Street Level Advisors, to evaluate the affordable homeownership program that it administers. A summary of Street Level's review, major outcomes, and actions that ARCH staff and the ARCH Executive Board have taken as a result of the review is included in the enclosed memo and attachments provided by Ms. Masters. The attachments are:

- Attachment 1 – Program Assessment Summary dated June 2019 from Street Level Advisors
- Attachment 2 – Proposed 2020 ARCH Administrative Budget
- Attachment 3 – Proposed 2020 ARCH Work Program
- Attachment 4 – ARCH Housing Trust Fund Parity Goals

The ARCH Executive Board has reviewed and approved the 2019 Administrative Budget and Work Program (see Attachments 2 and 3). Pursuant to the ARCH Interlocal Agreement, these are being forwarded to the member Councils for their review and approval.

Of particular note is that the proposed budget includes two new on-going staff positions – a Program Administrator and an Associate Planner – that are needed to increase ARCH's organizational capacity in order to implement the recommendations of the program review. This will increase each jurisdiction's administrative dues, as shown in Attachment 2. Kirkland's share of the administrative budget for 2020 will be \$175,946, which is 53% higher than its 2019 amount and approximately \$56,000 higher than was budgeted for 2020. A description of the new staff members' responsibilities is outlined on page 6 of Attachment 3.

New staffing is needed because ARCH has maintained roughly the same level of staffing (approximately 5.0 FTEs) since the early 2000s. During that time, the number of homeownership units monitored by ARCH grew from just over 100 to about 700 units. The number of rental units produced by local incentive programs grew from under 300 to roughly over 1,000 (with another 600 in the pipeline), while an additional 1,800 units were funded through the Housing Trust Fund. ARCH member cities continue to adopt more incentive programs to ensure that new developments contribute to affordability. In 2019 alone, Bothell, Kenmore and Woodinville have adopted new housing incentive programs.

With the addition of staff, ARCH intends to strengthen its core services and lay the groundwork to produce more affordable housing in east King County by:

- Developing measurable goals for production and preservation of affordable housing across ARCH member communities;
- Partnering with transit agencies and other stakeholders to create a plan for implementation of equitable transit-oriented development on the Eastside;
- Continuing to work on a long-term funding strategy for the ARCH Trust Fund;
- Exploring a shared legislative agenda to advance housing priorities at the state level;
- Developing an inventory of promising public and nonprofit property; and
- Exploring outreach and partnerships to promote Accessory Dwelling Unit development.

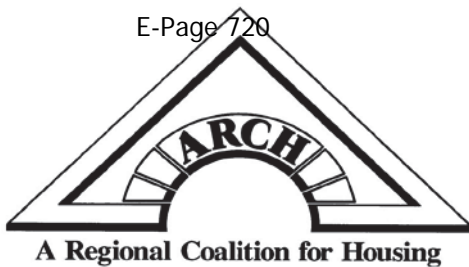
This year, ARCH will assist the City of Kirkland with the following:

- Implementing programs to encourage construction of more ADUs;
- Housing related issues in on-going neighborhood plan updates;
- Developing regulations to promote transit-oriented development (TOD) at the Kingsgate Park and Ride, including affordable housing;
- Housing issues related to the I-405/NE 85th Street Station Area Plan
- Administration of Code regulations requiring affordable housing;
- Other housing issues that come before the Council and resulting initiatives; and
- Affordable housing preservation efforts and initiatives.

A complete list of activities to be undertaken by ARCH in 2020 is contained in Attachment 3.

The ARCH Housing Trust Fund Parity Goals for each member jurisdiction are outlined in Attachment 4. It includes information about the estimated revenue that would be generated if each member implemented the local sales tax for affordable housing authorized under [HB 1406](#). The Kirkland City Council adopted R-5385, declaring its intent to adopt legislation, at its [September 3, 2019 meeting](#). Further action will be needed in 2020 to enact the legislation.

Cc: Lindsay Masters, ARCH, lmasters@bellevuewa.gov



Together Center Campus
16225 NE 87th Street, Suite A-3 ♦ Redmond, Washington 98052
(425) 861-3677 ♦ Fax: (425) 861-4553 ♦ WEBSITE: www.archhousing.org

MEMORANDUM

Date: September 13, 2019
 From: Lindsay Masters, ARCH Executive Manager
 Kurt Triplett, ARCH Executive Board Chair
 To: ARCH Member City Councils
 Subject: ARCH 2020 Budget and Work Program

Please find attached for your review the 2020 ARCH Budget and Work Program which was approved by the ARCH Executive Board for recommendation on September 12, 2019. This memo outlines important changes from previous program years aimed at strengthening ARCH's core services, and pursuing future opportunities to increase the production and preservation of affordable housing in member communities.

Background

In late 2018 through the first half of 2019, ARCH engaged in a deliberative process to evaluate organizational capacity to administer the growing number of member city affordable housing programs, particularly the long-term monitoring of units for compliance with program covenants. This effort involved a comprehensive review of policies and procedures within ARCH's Homeownership Program by a third party consultant, as well as a broad audit of homeownership units.

One major takeaway from this review was that **ARCH staffing has not kept up with the growth in programs it oversees**. ARCH has maintained roughly the same level of staffing (approximately 5.0 FTEs) since the early 2000s. During that time, the number of homeownership units monitored by ARCH grew from just over 100 to about 700 units. The number of rental units produced by local incentive programs grew from under 300 to roughly over 1,000 (with another 600 in the pipeline), while an additional 1,800 units were funded through the Housing Trust Fund. ARCH member cities continue to adopt more incentive programs to ensure that new developments contribute to affordability. In 2019 alone, Bothell, Kenmore and Woodinville all added new housing incentive programs.

The review also concluded with several key findings and recommendations for strengthening ARCH's Homeownership Program, which are described in the Program Assessment Summary prepared by Street Level Advisors in **Attachment 1**. Since the early 1990s, ARCH's program model was intended to provide slightly below market homeownership opportunities and operate with a low overhead. In the last decade, the value of ARCH units relative to the market grew dramatically, and the need for more active

monitoring has grown to ensure units are preserved and used for their intended purpose. On the whole, the Homeownership Program has achieved significant outcomes in providing affordable homeownership opportunities to income qualified households while preserving significant affordability relative to the broader housing market. However, without proper investment in staffing, the program will continue to experience compliance violations and erosion of affordability.

Recommended Staffing Levels for Homeownership Program

As noted by Street Level Advisors, staffing levels for ARCH's Homeownership Program fall well below peer programs and recommended best practices. The recommended staffing for the current program is between 2 and 4 full-time staff, with a ratio of no more than 350 units per FTE as the program continues to grow. Higher levels of staffing would be necessary for ARCH to implement more time-intensive recommendations such as reviewing and approving every buyer's financing. To help create a more sustainable staffing model, Street Level Advisors has also recommended that ARCH develop a plan for implementing new fees at the time of resale.

Based on this analysis, the ARCH Board approved steps to hire two additional staff, and advance options for resale fees that would support additional staffing over time. One new position will be dedicated entirely to administration of the Homeownership Program, bringing the overall program capacity up to 2.0 FTE. The second position will be responsible for compliance monitoring of rental housing covenants, providing additional capacity for contract and covenant development, and providing back-up support to the Homeownership Program. As ARCH incorporates new staff and grows the portfolio of homes in the program, the ARCH Board will continue to evaluate the needs of the organization to carry out critical functions on behalf of its members and the public.

Action Steps Completed to Date

ARCH's staff and Executive Board have taken a number of steps to strengthen ARCH's monitoring and program administration functions and begin implementing consultant recommendations, including:

- ARCH staff completed a light touch audit of every single unit in its Homeownership Program using publicly available data, which was reviewed and supplemented with additional data from ARCH's consultant. The audit identified three main types of issues (foreclosures, non-owner occupancy, and sales or transfers without proper notification).
- ARCH staff conducted follow-up investigations on over 50 units. These efforts resulted in determinations of compliance violations in 25 units, or 3.6% of the total portfolio.
- ARCH staff initiated work with legal counsel from each individual jurisdiction to help define cities' enforcement options. ARCH continues to assist each city to implement enforcement efforts as appropriate. In the majority of cases, homeowners are working cooperatively with ARCH to sell to new qualified buyers. As of September, 8 homes had been sold to new owners, and 3 are pending or listed for sale.

- In March through April, the ARCH Executive Board considered a range of options to create greater staff capacity to implement recommended changes to program policies and procedures. In early June, the Board approved a resolution to authorize the Executive Manager to utilize up to \$415,000 in one-time funds from ARCH reserves and City of Kirkland housing funds for recruitment of new limited-term employees and other methods to create immediate capacity.
- In late June, ARCH submitted hiring requests for two new positions to ARCH's Administering Agency (Bellevue). The positions were approved and advertised in July, and are currently in the selection process.
- In July, ARCH welcomed two interns to assist with administrative duties and special data projects that will help inform program design going forward.
- ARCH is currently in the process of soliciting consultant assistance to conduct analysis and prepare specific recommendations for ARCH's resale formula, and level of resale fees.

2020 Administrative Budget

ARCH's 2020 Administrative Budget shown in **Attachment 2** incorporates ongoing support for the increases in capacity described above. Changes from the previous budget year include:

- Continuation of two new staff positions (conversion from LTEs to permanent FTEs)
- Renewal of internship positions to provide continued administrative support
- Software licensing fees for a new database system
- Reduction in WCIA premiums and increase in Bellevue in-kind insurance
- Modest consultant budget to support:
 - Database development
 - Website updates

The budget also reflects an updated allocation methodology to distribute budgeted expenses among members. The methodology allocates each cities' share on a per capita basis, with a minimum floor of \$2,000. King County's contribution is not on a per capita basis, but does reflect a proportionate increase from 2019. The county has agreed to revisit its contribution levels in the 2021-22 biennium.

The budget includes a new section on contingent income and expenses that reflects the potential for ARCH to provide additional services if new fee revenue is realized. Specifically, up to \$150,000 in fee revenue is estimated from resale transactions and other fees (though it is likely that actual revenue will fall under this level). As noted above, this revenue would help support additional staff support over time.

2020 Work Program

ARCH's 2020 Work Program shown in **Attachment 3** reflects a stronger set of core services planned through the above increases in capacity. A description of the responsibilities of new staff is included on page 6, Stewardship of Affordable Housing Assets.

In addition to strengthening core services, the Work Program includes the following items aimed at laying the groundwork for greater production of affordable housing:

- Develop measurable goals for production and preservation of affordable housing across ARCH member communities
- Partner with transit agencies and other stakeholders to create a plan for implementation of equitable transit-oriented development on the Eastside
- Continue work on a long-term funding strategy for the ARCH Trust Fund
- Explore a shared legislative agenda to advance housing priorities at the state level
- Develop an inventory of promising public and nonprofit property
- Explore outreach and partnerships to promote ADU development

In concert with the activities above, the ARCH Executive Board will also undertake an organizational assessment to further evaluate ARCH's capacity to accomplish its stated mission. Following the thorough evaluation of monitoring functions in 2019, this broader evaluation will examine all areas of the ARCH Work Program, as well as ARCH's organizational structure and governance model. This will ultimately inform the Board's recommendations for the 2021 ARCH Budget and Work Program, as well as any needed revisions to the ARCH Interlocal Agreement, which is scheduled for renewal in 2020.

Housing Trust Fund Parity Goals / HB 1406

Each year, ARCH members are encouraged to contribute on a voluntary basis toward the ARCH Trust Fund, which helps to finance local affordable housing projects through loans and grants. Over time, ARCH cities developed a formula to create goals for local investment based on cities' population, projected employment and housing. A set of updated parity goals are provided in **Attachment 4**.

While these goals incorporate inflationary adjustments from historic investment levels, it is clear that the need for affordable housing has vastly outpaced the capacity of existing resources. ARCH encourages cities to pursue all opportunities to maximize housing investment. Earlier this year, ARCH provided a recommendation memo urging all members to adopt a resolution to implement the local sales tax authorized under HB 1406. If all ARCH cities were to implement this tax, our communities would benefit from roughly \$28 million more in local investment over the next 20 years, with no increase in taxes experienced by consumers. As each ARCH member city considers its 2020 budget, ARCH urges that these resources be authorized and made available for allocation as expeditiously as possible.

Conclusion

Now more than ever, it is critical to preserve and create new affordable housing in our community. The 2020 Budget and Work Program reflects ARCH's commitment to maintaining existing affordable housing assets, while working actively with member cities to pursue opportunities to dramatically expand access to affordable housing options in East King County.

Attachments:

1. Program Assessment Summary, June 2019, Street Level Advisors
2. 2020 ARCH Administrative Budget
3. 2020 ARCH Work Program
4. Housing Trust Fund Parity Goals



Program Assessment Summary

ARCH – A Regional Coalition for Housing

June 11, 2019

Introduction

ARCH engaged Street Level Advisors to assess the organization's ongoing stewardship of its Homeownership Program, which provides affordable ownership opportunities to people with low to moderate incomes while seeking to retain affordability by limiting resale prices for future buyers. This model is known as "shared equity homeownership." Shared Equity programs require a delicate balancing act between the dual goals of helping today's owners and preserving affordability for future buyers.

To conduct the assessment, Street Level Advisor worked with staff to identify problems including foreclosures, unauthorized rentals and unauthorized sales. We compiled data on the affordable pricing and current resale formula values for each home in ARCH's portfolio in order to understand the organization's performance in maintaining long-term affordability. We also administered a comprehensive assessment tool developed by Grounded Solutions Network based on identified best practices for affordable homeownership programs.

This report summarizes key findings and recommendations for specific changes in policies or administrative procedures which ARCH could make to strengthen the program.

A. Key Findings

1. The program is serving households in the target income range.

The roughly 700 units in the program were designed to target households at a range of incomes from 50% to 120% AMI, with the vast majority targeted at 80 to 120% AMI. For the sample of buyers we tested, the median household income was 70.9% of local AMI adjusted for household size.

In addition, buyer incomes are well below the income eligibility limits - 94% of buyers had incomes below the income limit for their unit, and the median buyer's income (as a percentage of local AMI, adjusted for household size) was 18.9 percentage points less than the limit. ARCH allows owners who are unable to sell their homes within 60 days to sell to households above the unit's income limit.

However, of the 29% of sales that occurred after the 60-day period, most homes were sold to buyers who were nonetheless income qualified. Overall, 7.2% of the resales we studied involved sales to 'over-income' buyers.

2. A significant share of ARCH homes have not remained affordable to the same income levels over time.

The program has utilized a variety of resale formulas over time and across different jurisdictions. These formulas have performed differently in preserving affordability, but a significant 67% are now affordable to a higher income group than they were at initial sale.

Overall, the typical home has lost 7.4 percentage points of affordability. Of the program's 3 most common resale formulas (REI, REI/HUD, and Flat Quarterly), the hybrid REI/HUD formula preserved affordability the best, and the REI formula performed the worst. Even so, the REI/HUD formula has still resulted in affordability losses in nearly all conditions other than the peak of the housing bubble.

We expect that this gradual erosion of affordability will lead to a steady increase in the number of homes that remain unsold after 60 days and ultimately sell to buyers who are above ARCH's income limits

3. The public share of equity in ARCH homes ("Value in Trust") has grown substantially over time

The typical ARCH home was initially sold at a restricted price approximately \$130,000 less than market value, but now has a current formula price that is \$330,000 less than market value. Taken together the difference between affordable prices and market values totals \$274 million. This is the value that ARCH is entrusted to steward.

For most homes (74.2%), the discount relative to market value that the current formula price provides is now larger than it was at initial sale. This means that although the program's resale formulas are allowing a steady erosion of affordability overall, they have nonetheless consistently deepened the homes' market discounts – just not enough to preserve affordability perfectly.

4. ARCH's Homeownership Program has provided meaningful opportunities for homeowners to build equity.

The most common resale formulas found in the program have allowed homeowners to build significant wealth and benefit from a significant portion of their homes' market appreciation. The typical ARCH home's current maximum formula price is approximately \$123,000 more than its initial affordable price.

In total, the program's restricted prices have appreciated by \$94 million. We estimate that for a typical unit, a homeowner who had owned since the unit was placed in ARCH's portfolio would have gained \$65,000 at resale (appreciation minus closing costs and downpayment). This results in a typical rate of return on homeowner's investment of 13.86% annually – nearly double what owners would have earned by investing in the S&P 500.

5. Compliance violations such as subleasing and unauthorized sales represent a small minority of the units in the program.

As of May 2019, ARCH has identified 51 homes (7% of the portfolio) that merited further review for possible compliance violations, either due to mail being forwarded to a different address, an apparent change of ownership, or other reason. Of these, 24 were determined to be in violation (3.5%), 16 were determined to be in compliance, and 11 were still under review. Violations were

categorized as unauthorized sales (1.3%), non-owner occupancy (1.7%), and unauthorized quit claim deed transfers (0.4%).

6. Foreclosures have created meaningful losses in the program, particularly following the economic recession, but have not been a frequent occurrence in recent years.

A total of 43 ARCH properties have experienced a foreclosure (5.8% of the portfolio). Of these, 20 happened without any formal notification to ARCH, and in most cases where ARCH was notified, ARCH was unable to preserve the resale covenants on these homes. This was largely due to ARCH not having the resources readily available for the purpose of purchasing units at risk of foreclosure.

7. ARCH is implementing industry best practices in many areas, but in other areas falls short of the goal of preserving long term affordability. Staffing levels lag significantly behind other successful programs.

ARCH's covenant and other legal documents are state of the art, incorporating many thoughtful and strong protections for the public interest in ARCH homes. But ARCH has been operating with less staff than is necessary to successfully preserve affordability and monitor compliance for such a large portfolio of homes. ARCH has less than one full time staffer dedicated to the program. This means that ARCH has had to take a relatively "hands off" approach to stewardship. Based on a comprehensive review of current practices and procedures, ARCH is currently implementing just over half of the 70 industry best practices covered by the assessment tool.

B. Recommendations

We found many areas where ARCH is implementing proven best practices but we also identified additional steps which ARCH could take to strengthen the homeownership program and greatly improve the likelihood that units would remain affordable over the long term. We made 35 detailed recommendations covering topics including business planning, marketing and buyer selection, initial pricing, resale pricing, mortgage financing, monitoring and enforcement. We have highlighted below the recommendations that seem most impactful.

Expand Staffing

- Add two or three additional full time staff positions including at least one person focused exclusively on the homeownership program.
- In order to help cover the cost of new staffing, develop a plan for implementing new fees at the time of resale to be charged to selling homeowners and/or to new buyers.

Strengthen Enforcement

- Convene a working group of attorneys from partner cities to coordinate short-term enforcement actions and to plan for changes to the legal structure to enable more effective enforcement in the future.

- Adopt a monitoring schedule and an enforcement plan outlining the intended steps that staff should take in the event of each common type of violation.
- Develop a comprehensive program manual (including mission statement) and have it reviewed and approved by the ARCH Board of Directors. Update it periodically – at least every 5 years.

Strengthen Requirements:

- Consider adopting a new resale formula which will better maintain affordability of homes at resale. If possible, update existing homes to the new formula whenever they turnover.
- Develop a strategy for “rebalancing” the pricing limits for units with resale prices that have risen to the point where they are considerably out of reach for their targeted income group.
- Switch to imposing income limits based on applicant household size rather than the size of the unit. Review other buyer eligibility criteria and consider adopting an asset limit and first time buyer requirement.
- Adopt a policy limiting buyers to approved mortgage product types. Consider creating a list of approved or preferred lenders.
- Work with ARCH’s attorneys to develop an approach that allows member cities to record new covenants at each resale, resetting the 30-year affordability period each time.
- Evaluate the feasibility of requiring buyers to participate in a program orientation session with ARCH staff.

Improve Systems

- Purchase HomeKeeper data management software (myHomeKeeper.org) to more efficiently manage program data and track outcomes.
- Create a standard application form for homebuyers in order to capture basic data about each applicant.

2020 ARCH Administrative Budget

Adopted by ARCH Executive Board

SEPTEMBER 12th, 2019

	Adopted 2019 Budget	2020 Recommended Budget	Difference	% Change
I. TOTAL EXPENSES	\$ 724,400	\$ 1,110,097	\$ 385,697	53%
A. Personnel	\$ 655,417	\$ 968,399	\$ 312,981	48%
Salaries	\$ 478,222	\$ 683,084	\$ 204,862	43%
Current Staff (5.0 FTE)	\$ 478,222	\$ 511,084	\$ 32,862	
(New) Program Administrator	\$ -	\$ 86,000	\$ 86,000	
(New) Associate Planner	\$ -	\$ 86,000	\$ 86,000	
Benefits	\$ 177,196	\$ 285,314	\$ 108,118	61%
Current Staff (5.0 FTE)	\$ 177,196	\$ 193,314	\$ 16,118	
(New) Program Administrator	\$ -	\$ 46,000	\$ 31,000	
(New) Associate Planner	\$ -	\$ 46,000	\$ 31,000	
B. Operating	\$ 54,368	\$ 67,195	\$ 12,827	24%
Rent & Utilities	\$ 24,294	\$ 24,780	\$ 486	
Telephone	\$ 4,375	\$ 4,586	\$ 211	
Travel/Training	\$ 2,000	\$ 2,600	\$ 600	
Auto Mileage	\$ 3,342	\$ 3,500	\$ 158	
Copier Costs	\$ 1,750	\$ 1,803	\$ 53	
Office Supplies	\$ 2,800	\$ 3,100	\$ 300	
Office Equipment Service	\$ 2,000	\$ 2,215	\$ 215	
Fax/Postage	\$ 825	\$ 1,500	\$ 675	
Periodical/Membership	\$ 3,992	\$ 4,112	\$ 120	
Misc. (events,etc.)	\$ 1,680	\$ 2,000	\$ 320	
Insurance	\$ 5,310	\$ -	\$ (5,310)	
Equipment Replacement	\$ 2,000	\$ 2,000	\$ -	
Furnishings			\$ -	
Database/software licensing		\$ 15,000		
C. In-Kind Admin/Services	\$ 14,615	\$ 19,503	\$ 4,888	33%
Insurance	\$ 5,000	\$ 9,660	\$ 4,660	
IT Services	\$ 9,615	\$ 9,843	\$ 228	
D. Grants and Consultant Contracts	\$ -	\$ 55,000	\$ 55,000	N/A
Consultant Contracts / Interns	\$ -	\$ 55,000	\$ -	
Special Grants	\$ -	\$ -	\$ -	

	Adopted 2019 Budget	2020 Recommended Budget	Difference	% Change
II. TOTAL INCOME	\$ 724,221	\$ 1,110,097	\$ 385,876	53%
A. Member Contributions	\$ 720,021	\$ 1,103,897	\$ 383,876	53%
Beaux Arts Village	\$ 1,750	\$ 2,000	\$ 250	14%
Bellevue	\$ 185,905	\$ 281,876	\$ 95,971	52%
Bothell	\$ 58,811	\$ 89,384	\$ 30,573	52%
Clyde Hill	\$ 4,193	\$ 6,551.43	\$ 2,358	56%
Hunts Point	\$ 1,750	\$ 2,000	\$ 250	14%
Issaquah	\$ 45,217	\$ 72,244	\$ 27,027	60%
Kenmore	\$ 29,793	\$ 44,921	\$ 15,128	51%
Kirkland	\$ 115,019	\$ 175,946	\$ 60,927	53%
Medina	\$ 4,221	\$ 6,523	\$ 2,302	55%
Mercer Island	\$ 33,327	\$ 50,222	\$ 16,895	51%
Newcastle	\$ 14,974	\$ 23,006	\$ 8,032	54%
Redmond	\$ 78,584	\$ 123,104	\$ 44,520	57%
Sammamish	\$ 80,784	\$ 127,494	\$ 46,710	58%
Woodinville	\$ 15,466	\$ 23,673	\$ 8,207	53%
Yarrow Point	\$ 1,750	\$ 2,401	\$ 651	37%
King County	\$ 48,477	\$ 75,000	\$ 26,523	55%
Bellevue Detail	\$ 185,905	\$ 281,876	\$ 95,971	
Cash Contributions	\$ 8,085	\$ 86,673	\$ 78,588	
In-Kind Contributions	\$ 177,820	\$ 195,203	\$ 17,383	
Personnel	\$ 163,205	\$ 175,700	\$ 12,495	
Insurance	\$ 5,000	\$ 9,660	\$ 4,660	
IT Services	\$ 9,615	\$ 9,843	\$ 228	
B. Other Income	\$ 4,200	\$ 6,200	\$ 2,000	
Administrative Fees	\$ 4,200	\$ 4,200	\$ -	
Interest Earned	\$ -	\$ 2,000	\$ 2,000	
III. USE OF RESERVES	\$ 179	\$ -	\$ (179)	

IV. CONTINGENT INCOME AND EXPENSES

Note: This section reflects potential opportunities for ARCH to provide additional services if new fee revenue is realized.

A. Contingent Expenses

Staffing or Consultants	\$ -	\$ 150,000	\$ 150,000	N/A
Additional Services	\$ -	\$ 150,000	\$ 150,000	N/A

B. Contingent Revenue

Resale/Monitoring Fees	\$ -	\$ 150,000	\$ 150,000	N/A
Service Fees	\$ -	\$ 150,000	\$ 150,000	N/A

ARCH WORK PROGRAM: 2020

2020 Priorities

In 2020, ARCH will elevate the following priorities in its Work Program:

- Provide excellent stewardship of affordable housing assets
- Develop measurable goals for production and preservation of affordable housing in the ARCH region
- Advance an initiative with high potential for impact (i.e., Eastside Equitable TOD Plan)
- Continue to support proposals for dedicated revenue sources for affordable housing
- Evaluate options for expanding ARCH's capacity to accomplish its broader mission

I. AFFORDABLE HOUSING INVESTMENT

A. ARCH Housing Trust Fund

Parity Goals. Develop updated goals for member investments through the ARCH HTF.

Annual Funding Round. Develop funding priorities and evaluation criteria for the annual funding round. Advertise available funds and manage a competitive process on behalf of member cities. Review funding applications and develop recommendations through the Citizen Advisory Board (CAB), with input from member staff. Develop final recommendations by the ARCH Executive Board and facilitate final funding allocations through member councils.

Public Funding Coordination. Work collaboratively with public funders at the State and local levels to promote shared affordable housing goals and equitable geographic distribution of resources. Review and provide input to other funders for Eastside projects that apply for County (HOF, RAHP, HOME, TOD etc.) and State (Tax Credit, State Housing Trust Fund) funds. Provide input to the King County Joint Recommendations Committee (JRC) on behalf of participating Eastside jurisdictions. Assist N/E consortium members with evaluating and making a recommendation to the County regarding CDBG allocations to affordable housing.

Private Funding Coordination. Work with private investors and lenders to maximize leverage of public investment into affordable housing. Negotiate maximum public benefits from investment of housing funds into private projects.

Project Pipeline Management. Work with member cities and project sponsors to develop a robust pipeline of projects to be funded over the next five years (see related work on Transit Center sites, below). Actively vet potential HTF projects, and lead funding policy and prioritization discussions with the ARCH Executive Board to facilitate planning and decision-making.

Contract Development and Monitoring. Prepare contract documents and distribute funds for awarded projects. Monitor funded projects including evaluating performance and tracking loan payments. Monitor for long term sustainability of previously funded projects.

Centralized Trust Fund Reporting. Work with Administering Agency (Bellevue) to maintain records and produce regular financial reports for the ARCH Trust Fund accounts.

B. Special Projects

Transit-Oriented Development Sites. Assist cities with advancing and coordinating affordable housing projects near transit. Partner with Sound Transit, King County Metro and other public agencies to maximize opportunities on public property. Current opportunities include sites in Bel-Red, Overlake, Downtown Redmond, Issaquah, Kirkland, Bothell, and Kenmore.

Surplus Property/Underdeveloped Property. Assist with evaluation of public surplus or underutilized private property (e.g. faith community properties) for suitability of affordable housing. Provide technical assistance to property owners interested in supporting affordable housing. Develop an inventory of promising public and nonprofit property and begin to engage owners to gauge interest in disposition for housing.

Eastside Shelter Capacity. Support efforts by Eastside shelter providers, Eastside Human Services Forum, and member cities to implement an East King County sub-regional strategic approach to shelter and related services for homeless adults and families. Support the completion of construction of a permanent women and family shelter, and continue supporting efforts to construct a permanent year-round men's shelter.

Preservation of At Risk Affordable Housing. As needed, assist with responding to notices of sale of HUD assisted properties received by member cities, or other information indicating an impending loss of existing affordable housing. Work with member cities to facilitate acquisitions or other strategies to preserve existing housing where affordability is at risk of being lost.

II. HOUSING POLICY AND PLANNING

A. Local Policy, Planning and Code Development

ARCH provides assistance directly to member cities on a range of local planning efforts. Local planning efforts with individual member cities may be found in *Attachment A*. These efforts may take different forms, such as:

- **Housing Element Updates.** Work with members to update comprehensive plan housing elements.
- **Housing Strategy Plans.** Assist members to prepare housing strategies to implement housing elements and create council work plans. Cities with recently completed strategy plans include Bellevue, Issaquah, Kenmore, Bothell, Kirkland, Redmond, and Sammamish.
- **Incentive Program Design.** Provide economic analysis and policy and program development support to design housing incentive programs, including land use, property tax, impact fee waivers and other incentives.
- **Land Use Code Amendments.** Assist city staff on land use and other code amendments in order to implement comprehensive plan policies.
- **Other Support.** Other areas in which ARCH could provide support to member cities include preservation of valuable community housing assets, assistance to households displaced by development activity, or negotiation of agreements for specific development proposals. ARCH views this as a valuable service to its members and will continue to accommodate such requests to the extent they do not jeopardize active work program items.

B. Inter-Local / Eastside Planning Activities

Interlocal planning activities are coordinated by ARCH for the benefit of multiple members.

ARCH Regional Affordable Housing Goals and Reporting. Work with member staff and the ARCH Executive Board to develop measurable goals for production and preservation of affordable housing across ARCH member communities. Explore working with King County to utilize dashboards created for the GMPC Affordable Housing Committee.

Eastside Equitable Transit-Oriented Development Plan. Partner with transit agencies and other stakeholders to create a plan for implementation of equitable transit-oriented development on the Eastside. The plan will aim to define shared policy goals and strategies, establish numerical goals for affordable unit production, identify specific site opportunities/affordable housing pipeline, and include commitments by partner agencies to utilize available tools and resources.

Long-Term Funding/Dedicated Revenue Strategy. Continue work on a long-term funding strategy for the ARCH Trust Fund. Facilitate conversations with member cities on identifying and exploring dedicated sources of revenue for affordable housing at the local and regional level (e.g., REET, property tax levy, 0.1% sales tax, etc.). Provide relevant data and develop options for joint or individual revenue approaches across ARCH member cities and determine any shared state legislative priorities to authorize local options for funding.

Eastside Housing Data Analysis. On an annual basis, ARCH provides housing and demographic data as available. This information is available to members for planning efforts and will be incorporated into ARCH education fliers and an updated Housing 101 report.

Housing Diversity/Accessory Dwelling Units (ADUs). Continue to support a diversity of housing options among member cities:

- Accessory Dwelling Units (ADUs): Explore outreach and other ways to promote ADU development (e.g., improve online resources, provide connections to financing options). Explore partnership with eCityGov Alliance to increase accessibility of ADU permitting (e.g., update tip sheets and create streamlined portal through MyBuildingPermit.com).

C. State Legislative Activities

The ARCH Executive Board will discuss and explore shared legislative priorities for advancing affordable housing in the region. ARCH staff will track relevant state (and, where feasible, federal) legislation. As needed, staff will report to the Executive Board and members, and coordinate with relevant organizations (e.g. AWC, SCA, WLIHA, HDC) to advance shared legislative priorities.

D. Regional/Countywide Planning Activities

ARCH participates in regional planning efforts to advance Eastside priorities and ensure that perspectives of communities in East King County are voiced in regional housing and homelessness planning.

King County GMPC Affordable Housing Committee / Housing Inter-Jurisdictional Team (HIJT). Support efforts to advance the five-year action plan developed by the Regional Affordable Housing Task Force in 2018. ARCH will help staff the HIJT, which provides support to the Growth Management Planning Council's Affordable Housing Committee (AHC). In addition, ARCH will facilitate discussions as needed with members and the Executive Board to consider actions recommended in the five-year plan.

All Home/ Eastside Homeless Advisory Committee (EHAC). Collaborate with All Home, EHAC and other relevant organizations and initiatives to advance shared work on homelessness. Coordinate allocation of resources, and work on specific initiatives (e.g., coordinated entry and assessment for all populations).

Explore Collaboration with Cities in North and East King County. As requested, engage cities interested in supporting affordable housing in north and east King County that are not currently members of ARCH. Explore collaboration that provides benefits for additional cities and current ARCH member cities.

III. HOUSING PROGRAM IMPLEMENTATION

A. Administration of Housing Incentive and Inclusionary Programs

ARCH partners with member cities to administer local housing incentive and inclusionary programs, including mandatory inclusionary, voluntary density bonus, multifamily tax exemption (MFTE) and other programs. Specific programs administered by ARCH include:

Jurisdiction	Incentive/Inclusionary Programs
Bellevue	Voluntary density bonuses, MFTE, impact fee waivers.
Bothell	Inclusionary housing.
Issaquah	Development agreements, voluntary and inclusionary programs, impact and permit fee waivers.
Kenmore	Voluntary density bonuses, MFTE, impact fee waivers.
Kirkland	Inclusionary program, MFTE.
Mercer Island	Voluntary density bonus, MFTE.
Newcastle	Inclusionary program, impact fee waivers.
Redmond	Inclusionary program, MFTE.
Sammamish	Inclusionary and voluntary density bonuses, impact fee waivers.
Woodinville	MFTE.
King County	Development agreements.

ARCH roles and responsibilities will typically include:

- Communicate with developers/applicants and city staff to establish applicability of codes and policies to proposed developments
- Review and approve proposed affordable housing (unit count, location/distribution, bedroom mix, and quality)
- Review and recommend approval of MFTE applications.
- Review and recommend approval of alternative compliance proposals
 - For fee in lieu projects, provide invoices and receipts for developer payments
- Develop contracts and covenants containing affordable housing requirements
- Ensure implementation of affordable housing requirements during sale/lease-up
- Register MFTE certificates with County Assessor and file annual MFTE reports with state Commerce.
- On-going compliance monitoring (see Stewardship, below).

MyBuildingPermit.com. Explore feasibility of using MyBuildingPermit.com to take in, review, and process projects (covenants) using land use and/or MFTE programs.

B. Stewardship of Affordable Housing Assets

ARCH provides long-term oversight of affordable housing created through city policies and investment to ensure stewardship of these critical public assets for residents, owners and the broader community.

Monitoring Affordable Rental Housing. Enforce ongoing compliance with affordability requirements in rental housing projects created through direct assistance (e.g. Trust Fund allocation, land donations) from member jurisdictions, and through incentive and inclusionary programs. For Trust Fund projects, monitor project income and expenses to determine cash flow payments, and conduct long-term sustainability monitoring of projects and owners. Proactively problem-solve financial and/or organizational challenges in partnership with project owners and other funders.

Dedicate new staff to developing a more robust program of monitoring and enforcement, including developing procedures for on-site file audits, standard remedies for non-compliance, and training and technical assistance for property managers. In addition, work with cities to implement fee structures that build more sustainable monitoring efforts, and develop formal MOUs with other funders to govern shared monitoring responsibilities. To the extent feasible, establish working relationship with other public organizations that can help assess how well properties are maintained and operated (e.g. code compliance, police, and schools).

ARCH Homeownership Program. Provide effective administration to ensure ongoing compliance with affordability and other requirements in ARCH ownership housing, including enforcement of resale restrictions, buyer income requirements, and owner occupancy requirements. In addition, work with cities to address non-compliance.

Dedicate new staff to continue implementing changes to monitoring policies and procedures recommended in the 2019 Program Assessment from Street Level Advisors, including but not limited to:

- Convene member planning and legal staff to implement revisions to boilerplate legal documents, in consultation with key stakeholders.
- Institute regular monitoring schedule to verify owner occupancy
- Develop fee revenue policies to improve sustainability of program administration
- Develop strategies to preserve homes at risk of foreclosure
- Continue to evaluate staff capacity to maintain oversight as the number of ARCH homes continues to grow.

In addition, develop a strategic direction for the program that preserves long-term affordability and meets other important public policy objectives.

Program Database Development. Continue to transition ARCH to new database systems to better manage existing and to be collected program data and support other critical functions, including creation of program reports, project compliance monitoring, communication with program participants, and other functions.

IV. EDUCATION AND OUTREACH

A. Housing 101/Education Efforts

Housing 101. Develop educational tools and conduct or support events to inform councils, member staff and the broader community of current housing conditions, and of successful housing programs. Build connections with community groups, faith communities, developers, nonprofits and others interested in housing issues. Plan and conduct a Housing 101 event to occur no later than the end of 2020.

Private Sector Engagement. Support efforts by ARCH member cities to engage employers and private sector entities in discussions around the need for more affordable housing and identifying options for public-private partnerships.

Share media coverage on topics related to affordable housing in East King County, including work done by cities/ARCH.

B. Information for the Public

ARCH Website. Update on a regular basis information on the ARCH website, including information related to senior housing opportunities. Maintain the ARCH web site and update the community outreach portion by incorporating information from Housing 101 East King County, as well as updated annual information, and links to other sites with relevant housing information (e.g. All Home, HDC). Add information to the website on ARCH member affordable incentive programs and fair housing.

Assist Community Members Seeking Affordable Housing. Maintain lists of affordable housing in East King County (rental and ownership) and make that information available to people looking for affordable housing. Continue to maintain a list of households interested in affordable ownership and rental housing and advertise newly available housing opportunities.

Work with other community organizations and public agencies to develop appropriate referrals for different types of inquiries received by ARCH (e.g., rapid re-housing, eviction prevention, landlord tenant issues, building code violations, fair housing complaints, etc.).

C. Equitable Access to Affordable Housing in East King County

Collect data on existing programs to determine potential gaps in access by different populations, such as communities of color, immigrant and refugee communities, homeless individuals and families, and workers in EKC commuting from other communities. Pursue strategies to increase access to affordable housing in EKC by underserved communities. Develop outreach and marketing efforts to maximize awareness of affordable housing opportunities in East King County, and build partnerships with diverse community organizations.

V. ADMINISTRATION

A. Administrative Procedures

Maintain administrative procedures that efficiently and transparently provide services to both members of ARCH and community organizations utilizing programs administered through ARCH. Activities include:

- Prepare the Annual Budget and Work Program and ensure equitable allocation of administrative costs among ARCH members.
- Prepare quarterly budget performance and work program progress reports, Trust Fund monitoring reports, and monitor expenses to stay within budget.
- Manage the ARCH Citizen Advisory Board, including recruiting and maintaining membership that includes broad geographic representation and a wide range of housing and community perspectives.
- Staff the Executive Board.
- Work with Administering Agency to streamline financial systems.
- Renew the ARCH Interlocal Agreement.

B. Organizational Assessment and Planning

The ARCH Executive Board will continue to evaluate ARCH's organizational capacity to accomplish its Work Program and broader mission. The Board will review ARCH's organizational structure, staffing resources, capital resources and other foundational aspects of the organization to determine any gaps, and assess options for expanding organizational capacity. The assessment will result in recommendations for the following year's work program and budget, and a decision to renew or recommend revisions to the ARCH Interlocal Agreement.

Attachment A
Local Planning Efforts by City

ARCH staff plan to assist members' staff, planning commissions, and elected councils in the following areas:

Bellevue

Implementing Bellevue's Affordable Housing Strategy, including:

- Increasing development potential on suitable land owned by public agencies, faith-based groups, and non-profits housing entities.
- Reviewing parking requirements and other code changes to encourage micro-apartments around light rail stations.
- Updating Wilburton and East Main neighborhood plans, including affordable housing density incentives.
- Developing funding strategy for affordable housing on suitable public lands in proximity to transit hubs including 130th TOD parcels and TOD parcels at the OMFE.

Bothell

Implementing its Housing Strategy Plan.

Establishing an MFTE program.

Evaluating affordable housing provisions related to zoning and other code amendments and implementing those adopted.

Work related to affordable housing component of the city's LIFT program in their downtown areas. Includes assisting with any reporting requirements and potentially exploring additional opportunities for affordable housing on city owned properties in the downtown revitalization area.

Evaluating the updated state legislation regarding impact fee waivers for affordable housing and explore potential revisions to local regulations related to impact fee waivers for affordable housing.

Evaluating and implementing affordable housing strategies in its Canyon Park plan.

Issaquah

Preparing the annual Affordable Housing Report Card/Analysis.

Updating and consolidating Title 18 and Central Issaquah Development and Design Standards.

Evaluating and, as needed, implementing development standards and regulations related to the housing policies adopted in the Central Issaquah Plan and Central Issaquah Standards, including inclusionary zoning.

Evaluating and strategizing sequencing potential projects/opportunities such as those near transit facilities, including coordination with potentially utilizing the King County TOD funds.

Initial work on high priority strategies identified in the Housing Strategy Work Plan including:

- Improving marketing and the understanding of ADUs and the development process.
- Facilitating development of a TOD.
- Amending codes to increase allowed diverse housing types such as SROs and cottage housing.
- Supporting housing options and services to assist people experiencing housing insecurity and those with barriers to independent living.

Marketing and maximizing awareness of affordable housing opportunities in Issaquah.

Kenmore

Implementing a high priority item identified in the Housing Strategy Plan.

Completing the Preservation of Affordable Housing/Mobile Home Park project started in 2018, including assistance with developing regulations to implement Council's policy direction on land use and other strategies.

Reviewing current code provisions and permitting process for Accessory Dwelling Units (ADUs).

Assisting with technical questions and negotiating agreements where affordable housing is proposed including the Transit Oriented District (TOD) overlay.

Reviewing and developing options and opportunities for partnerships to incorporate affordable housing into transit projects including the siting of parking structures in Kenmore for the Sound Transit ST3 proposal.

Kirkland

Implementing programs to encourage construction of more ADUs.

Housing-related issues in on-going neighborhood plan updates.

Developing regulations to promote transit-oriented development (TOD) at the Kingsgate Park and Ride, including affordable housing.

Housing issues that come before Council Planning and Economic Development Committee and resulting initiatives.

Housing issues related to Station Area Plan (I-405/NE 85th Street).

Affordable housing preservation efforts and initiatives.

Mercer Island

Reviewing the City's MFTE program and evaluating options for a fee-in-lieu alternative to land use requirements.

Updating the Housing Strategy Plan.

Reviewing components of residential development standards that are associated with housing stock diversity.

Newcastle

Updating the Housing Strategy Plan.

Outreach efforts related to ADUs.

Redmond

Implementing strategies to increase the level of affordability for new housing in Overlake and Southeast Redmond as part of the development of master plans and development agreements, including exploring ways to leverage other resources.

Promoting affordable housing and other programs available to Redmond residents and developers, e.g., Accessory Dwelling Units (ADUs).

Implementing other high priority items identified in the City Council's 2019 Strategic Plan.

Updating the Strategic Housing Plan and the Affordable Housing Strategies Work Plan of June 2016, such as encouraging public/private partnerships to promote the development of affordable housing in urban centers.

Sammamish

Implementing the Housing Strategy Plan.

Finalizing resale requirements and other tasks related to the affordability provisions for site donated to Habitat.

Exploring impacts to and solutions for affordable housing related to code and policy updates during legislative review.

Promoting available housing assistance and affordable housing programs to Sammamish's workforce and residents.

Woodinville

Updating the Housing Strategy Plan.

Reviewing and updating affordable housing and accessory dwelling unit programs and regulations.

Evaluating and developing incentives for affordable housing as provided for in the Downtown/Little Bear Creek Master Plan area.

Reviewing components of residential development standards that are associated with housing stock diversity.

King County

Monitoring affordable housing in the Northridge/Blakely Ridge and Redmond Ridge Phase II affordable housing development agreements.

ARCH Housing Trust Fund Parity Goals
(as of September 2019*)

City	2019 General Fund Contributions	2019 CDBG	Low Goal	High Goal	Estimated HB 1406 Revenue**
Beaux Arts Village	\$0	-	\$53	\$1,816	494
Bellevue	\$412,000	-	\$681,807	\$1,054,164	591,847
Bothell	\$78,000	-	\$173,394	\$314,235	54,336
Clyde Hill	\$25,000	-	\$0	\$18,431	5,609
Hunts Point	\$2,500	-	\$0	\$2,542	1,246
Issaquah	\$153,000	-	\$170,941	\$348,067	125,467
Kenmore	\$40,000	-	\$53,297	\$179,420	19,752
Kirkland	\$415,000	\$128,012	\$343,916	\$528,052	195,134
Medina	\$12,340	-	\$0	\$19,642	9,103
Mercer Island	\$50,000	-	\$17,766	\$146,903	36,318
Newcastle	\$27,000	-	\$13,058	\$75,116	11,564
Redmond	\$500,000	\$123,308	\$296,200	\$613,357	255,488
Sammamish	\$100,000	-	\$31,978	\$384,176	52,235
Woodinville	\$50,000	-	\$56,589	\$151,633	57,205
Yarrow Point	\$1,750	-	\$0	\$6,446	2,280
N/E CDBG		\$113,302	N/A	N/A	N/A
Total	\$1,764,090	\$364,622	\$1,839,000	\$3,844,000	1,418,078
Total = \$2,128,172			Midpoint = \$2,841,500		

*Goals are updated based on the most recent annual CPI figures.

**Based on 2018 revenues. Actual tax authority will be established based on state fiscal year 2019 sales.

RESOLUTION R-5401

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE 2020 A REGIONAL COALITION FOR HOUSING (ARCH) ADMINISTRATIVE BUDGET AND WORK PROGRAM.

1 WHEREAS, A Regional Coalition for Housing (ARCH) is a
2 partnership of King County and East King County Cities, including
3 the City of Kirkland, which have joined together to assist with
4 preserving and increasing the supply of housing for low-and
5 moderate-income households in the region; and
6

7 WHEREAS, ARCH's member governments have supported
8 a wide range of housing created and operated by local
9 organizations and private developers that serve individuals,
10 families, seniors, the homeless and people with special needs; and
11

12 WHEREAS, the ARCH Executive Board has reviewed and
13 approved the 2020 Administrative Budget and Work Program; and
14

15 WHEREAS, the ARCH Interlocal Agreement, to which the
16 City is a party, requires that the 2020 Administrative Budget and
17 Work Program be reviewed and approved by the City Council.
18

19 NOW, THEREFORE, be it resolved by the City Council of the
20 City of Kirkland as follows:
21

22 Section 1. The 2020 A Regional Coalition For Housing
23 (ARCH) Administrative Budget and Work Program are approved.
24

25 Passed by majority vote of the Kirkland City Council in open
26 meeting this __ day of _____, 2019.
27

28 Signed in authentication thereof this __ day of _____,
29 2019.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk



CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager
From: Lorrie McKay, Intergovernmental Relations and Economic Development Manager
Date: October 22, 2019
Subject: CITY'S VOTING DELEGATE TO SCA's 2019 ANNUAL MEETING, DECEMBER 4, 2019

RECOMMENDATION:

City Council designates by Motion its voting delegate to represent the City of Kirkland at the Sound Cities Association (SCA) 2019 Annual Meeting and provide direction to the delegate on voting on the dues, budget, and bylaw amendments.

SCA must be notified in writing of Council's designated voting delegate via email to sca@soundcities.org

BACKGROUND DISCUSSION:

The SCA 2019 Annual Meeting will be held Wednesday, December 4 at the Renton Pavilion Events Center. The meeting program begins at 6:30, with a social hour from 5:30 to 6:30. All voting members will vote on the proposed 2020 member city dues, 2020 SCA budget, and bylaw amendments.

At its October Board meeting, the SCA Board voted to recommend the 2020 SCA member city dues (Attachment A), 2020 SCA budget (Attachment B), and amendments to the SCA Bylaws (Attachment C) to the membership for adoption at the Annual Meeting.

Following is a summary of the recommendations on each:

2020 SCA Dues:

These proposed dues were previously sent to you for review. As in past years, the proposed dues are adjusted by population growth, and the CPI-W June-June (which is 1.7% this year). The proposed 2020 dues for Kirkland are \$53,308.04, representing an increase of \$891 from 2019.

2020 SCA Budget:

The proposed 2020 SCA budget includes an approximately 4.6% increase over 2019. While member city dues are proposed to increase by less than 3%, sponsorship revenue is projected to increase by over 17% from 2019.

SCA Bylaw Amendments:

A subcommittee of the SCA Board has been meeting since 2018 to review and make recommendations on amendments to the SCA Bylaws. While many of the proposed changes simply clean up confusing or ambiguous language, there are a few substantive changes proposed including:

- Adjusting the size of eligible SCA member cities from 150,000 to 250,000, to account for future population growth in our cities;

- Changing portions of the bylaws that previously provided that the Executive Director would serve as the Secretary of the Board, to have a Board member serve in the Secretary position;
- Clarifying that the SCA Board may remove appointees who miss three consecutive meetings, or for other reasons detrimental to the Association, by a 2/3 vote of the Board at a regularly scheduled meeting.

Any questions, comments, or concerns should be directed to SCA staff by November 13, 2019, so they may be included for the SCA Board discussion at its November meeting.

Attachments: A. Recommended 2020 SCA member city dues
B. Recommended 2020 SCA budget
C. Recommended amendments to the SCA Bylaws

Draft 2020 Member City Dues

- Proposed dues based on rate of \$0.66635044 per resident
- Rate adjusted by CPI-W June - June (1.7% for 2019); Previous rate was \$.65521184 per resident
- Proposed dues are based on the current rate x 2019 OFM population (capped at 80,000 residents)

Municipality	Previous Population	2019 Dues	Current Population	Proposed 2020 Dues	Change from 2019
Algona	3,180	\$ 2,083.57	3,190	\$ 2,125.66	\$ 42.09
Auburn (part)	70,650	\$ 46,290.72	71,740	\$ 47,803.98	\$ 1,513.26
Beaux Arts Village	300	\$ 196.56	300	\$ 199.91	\$ 3.35
Bellevue	80,000 (142,400)	\$ 52,416.95	80,000 (145,300)	\$ 53,308.04	\$ 891.09
Black Diamond	4,360	\$ 2,856.72	4,525	\$ 3,015.24	\$ 158.52
Bothell (part)	27,440	\$ 17,979.01	28,570	\$ 19,037.63	\$ 1,058.62
Burien	51,850	\$ 33,972.73	52,000	\$ 34,650.22	\$ 677.49
Carnation	2,155	\$ 1,411.98	2,220	\$ 1,479.30	\$ 67.32
Clyde Hill	3,045	\$ 1,995.12	3,055	\$ 2,035.70	\$ 40.58
Covington	20,080	\$ 13,156.65	20,280	\$ 13,513.59	\$ 356.94
Des Moines	31,140	\$ 20,403.30	31,580	\$ 21,043.35	\$ 640.05
Duvall	7,655	\$ 5,015.65	7,840	\$ 5,224.19	\$ 208.54
Enumclaw (part)	11,660	\$ 7,639.77	12,200	\$ 8,129.48	\$ 489.71
Federal Way	80,000 (97,440)	\$ 52,416.95	80,000 (97,840)	\$ 53,308.04	\$ 891.09
Hunts Point	420	\$ 275.19	420	\$ 279.87	\$ 4.68
Issaquah	37,110	\$ 24,314.91	37,590	\$ 25,048.11	\$ 733.20
Kenmore	22,920	\$ 15,017.46	23,320	\$ 15,539.29	\$ 521.83
Kent	80,000 (128,900)	\$ 52,416.95	80,000 (129,800)	\$ 53,308.04	\$ 891.09
Kirkland	80,000 (87,240)	\$ 52,416.95	80,000 (88,940)	\$ 53,308.04	\$ 891.09
Lake Forest Park	13,090	\$ 8,576.72	13,250	\$ 8,829.14	\$ 252.42
Maple Valley	25,280	\$ 16,563.76	26,180	\$ 17,445.05	\$ 881.29
Medina	3,245	\$ 2,126.16	3,245	\$ 2,162.31	\$ 36.15
Mercer Island	24,270	\$ 15,901.99	24,470	\$ 16,305.60	\$ 403.61
Milton (part)	1,195	\$ 782.98	1,195	\$ 796.29	\$ 13.31
Newcastle	12,410	\$ 8,131.18	12,450	\$ 8,296.06	\$ 164.88
Normandy Park	6,595	\$ 4,321.12	6,610	\$ 4,404.58	\$ 83.46
North Bend	6,825	\$ 4,471.82	6,965	\$ 4,641.13	\$ 169.31
Pacific (part)	6,875	\$ 4,504.58	6,875	\$ 4,581.16	\$ 76.58
Redmond	64,050	\$ 41,966.32	65,860	\$ 43,885.84	\$ 1,919.52
Renton	80,000 (104,100)	\$ 52,416.95	80,000 (104,700)	\$ 53,308.04	\$ 891.09
Sammamish	63,470	\$ 41,586.30	64,410	\$ 42,919.63	\$ 1,333.33
SeaTac	29,130	\$ 19,086.32	29,180	\$ 19,444.11	\$ 357.79
Shoreline	55,730	\$ 36,514.96	56,370	\$ 37,562.17	\$ 1,047.21
Skykomish	205	\$ 134.32	205	\$ 136.60	\$ 2.28
Snoqualmie	13,450	\$ 8,812.60	13,670	\$ 9,109.01	\$ 296.41
Tukwila	19,800	\$ 12,973.19	20,930	\$ 13,946.71	\$ 973.52
Woodinville	11,830	\$ 7,751.16	12,410	\$ 8,269.41	\$ 518.25
Yarrow Point	1,065	\$ 697.80	1,040	\$ 693.00	\$ (4.80)
Total	1,212,560	\$ 689,597.37	1,064,145	\$ 709,093.49	\$ 19,496.12



DRAFT 2020 BUDGET

TOTAL INCOME				\$822,293.00
City Member Dues			\$ 709,093.00	
Membership/Sponsorships			\$ 75,000.00	
Registration/Dinners Revenue			\$ 29,100.00	
Interest Income			\$ 9,100.00	
TOTAL EXPENSES				\$822,228.00
Staff				<u>\$669,309.00</u>
	Salaries			\$497,550.00
	Payroll Taxes			\$ 37,853.00
		FUTA	\$ 210.00	
		SUTA	\$ 342.00	
		FICA/Medicare	\$34,501.00	
		L&I	\$ 1,650.00	
		WA PFML	\$ 1,150.00	
	Benefits			\$133,906.00
		PERS Contributions	\$62,379.00	
		Med/Dental/Vision/Life	\$56,527.00	
		Prof. Development	\$ 5,000.00	
		Travel Reimb./Car Allowance	\$10,000.00	
				<u>\$ 69,635.00</u>
Office/Overhead				
	Rent			\$ 28,831.00
	Office Insurance			\$ 604.00
	Printing/Reproduction			\$ 6,000.00
		Copier/Printer Lease & Maint.	\$ 4,546.00	
		Outsourced Printing/Publications	\$ 1,454.00	
	IT Expenses			\$ 8,900.00
		Internet	\$ 1,200.00	
		Website Design/Hosting	\$ 1,200.00	
		IT Equipment	\$ 5,000.00	
		Software	\$ 1,500.00	
	Phones			\$ 2,600.00
	CC, Bank, Other Fees			\$ 150.00
	Accounting & Payroll Fees			\$ 15,000.00
	Legal			\$ 5,000.00
	General Office Supplies			\$ 2,550.00
Event Expenses				<u>\$ 25,510.00</u>
	Event Food/Bev			\$ 24,000.00
	Payment Processing Fees			\$ 110.00
	Event Rentals/Supplies			\$ 1,400.00
Board/Org. Development				<u>\$ 37,774.00</u>
	D&O Insurance			\$ 1,774.00
	Awards/Recognition			\$ 1,000.00
	Retreats/Meetings/Events/Conferences/Dues			\$ 15,000.00
	Consultants and Temporary Staff			\$ 20,000.00
Contingency Fund				\$ 20,000.00
Total Income				<u>\$822,293.00</u>
Total Expenses				<u>\$822,228.00</u>
				\$ 65.00



BYLAWS

OF

SOUND CITIES ASSOCIATION

Sound Cities Association
6300 Southcenter Blvd Suite 206
Tukwila Washington 98188
Phone 206 433 7168
Fax 206 242 8031
Email sca@soundcities.org
www.soundcities.org

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ARTICLE 1. NAME, OFFICES AND REGISTERED AGENT

- 1.1 The name of the corporation shall be Sound Cities Association (herein referred to as "SCA") with its principal office for the transaction of business in the County of King, State of Washington, and/or in such other places as the Board of Directors may determine.
- 1.2 The Executive Director of SCA shall be the Registered Agent of record.

ARTICLE 2. PURPOSE

2.1 To lead King County cities with a population less than 250,000 to act locally and partner regionally to create livable vital communities through advocacy, education, leadership, mutual support and networking.

Deleted: 150,000

ARTICLE 3. MEMBERSHIP

3.1 **CLASSES OF MEMBERS.** The corporation shall initially have one class of voting members. Additional classes of members, the manner of election or appointment of each class of members, and the qualifications and rights of each class of members may be established by amendment to these Bylaws.

3.1.1 Voting Members Voting membership in the Association shall be open to all cities and towns in King County having a population of less than 250,000. Association members shall be those qualified cities and towns that have paid annual dues and assessments. Membership shall be in the name of the city or town.

Deleted: Regional Affiliate Membership SCA Regional affiliate membership is available to all cities and towns in Kitsap, Pierce, and Snohomish Counties having populations of less than 150,000 that demonstrate an interest in the purposes and programs of SCA and desire to make a useful contribution to its work.

3.1.2 Regional Associate Membership SCA provides an opportunity for entities other than cities in King County with a public service interest to become members through a special "associate" membership category. Associate members are non-voting members and are not eligible to participate in SCA's legislative policy development or to serve on the Board of Directors or policy committees including but not limited to the Public Issues Committee (PIC).

Deleted: private firms and individuals

3.2 **QUALIFICATIONS FOR MEMBERSHIP.** Voting membership in the Association shall be open to all cities and towns in King County having a population of less than 250,000. Association members shall be those qualified cities and towns that have paid annual dues and assessments. Membership shall be in the name of the city or town.

Deleted: 150,000

3.3 **MEMBERSHIP ANNUAL DUES AND ASSESSMENTS.** The dues of the Association shall be assessed annually as determined by the voting membership's adoption of the Association's budget. Assessments for special activities or expenses may be determined by action of the Board of Directors with approval of a majority of the membership. All dues and assessments will be based on the most recent official population figure for each city and town as provided by the State Office of Financial Management (OFM).

3.4 VOTING RIGHTS.

3.4.1. **Designation of Delegates** Each member city, prior to the annual membership meeting, shall designate one delegate who shall be a duly elected official of such member city to

represent the member city in the affairs of the corporation, and shall file with SCA's Executive Director written notification of such designation prior to the annual membership meeting. Members' delegates may be changed at any time, provided the Executive Director receives written notice of such change prior to the annual meeting.

Deleted: no less than 48 hours

3.4.2. Voting Each member city shall be entitled to one vote upon each issue submitted to membership vote at the annual membership meeting. Each vote shall be cast in person by the delegate in attendance at the annual membership meeting. Voting by the general membership shall be via voice of the delegates. When the results of a voice vote cannot clearly be determined, any member may call for a roll call vote.

3.5 ANNUAL MEETING. The annual meeting of the members shall be held at such date as the Board may determine, for the purpose of adopting an annual budget and dues, and transacting such other business as may properly come before the meeting. The Board shall arrange for the program of all annual meetings and all other meetings as it determines.

3.6 SPECIAL MEETINGS. Special meetings of the membership may be called for any purpose by (1) the Board or (2) majority vote at the annual membership meeting.

3.7 PLACE OF MEETINGS. All meetings of members shall be held at a location in King County, Washington selected by the Board. Special meetings shall be held at places as may be determined by (1) the Board or (2) majority vote.

Deleted: at the annual membership meeting.

3.8 NOTICE OF MEETINGS. The President or the Board shall cause to be delivered to each member entitled to notice of or to vote at the meeting, either personally, by email, or by mail, not less than ten (10) nor more than fifty (50) days before the meeting, written notice stating the place, date and time of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

3.9 QUORUM. Fifty-one percent of the members of the corporation, represented in person shall constitute a quorum at a meeting of the members. If less than a quorum of the members is represented at a meeting, a majority of the members so represented may adjourn the meeting.

3.10 MANNER OF ACTING. The vote of a majority represented in person at a meeting at which a quorum is present shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by applicable Washington law, the Articles of Incorporation or these Bylaws.

3.11 MEETINGS BY TELEPHONE. In the case of an emergency meeting of the membership, members of the corporation may participate in a meeting of members by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

ARTICLE 4. BOARD OF DIRECTORS

4.1. GENERAL POWERS. The Board of Directors shall have general control and supervision over the corporation and shall be empowered to determine all questions of policy that may arise in all intervals between annual membership meetings.

4.2. NUMBER. The Board shall be composed of thirteen (13) directors, consisting of ten (10) caucus representative directors, one (1) chair of the Public Issues Committee, the Immediate Past President, and one (1) member representative from a member city in good standing to the King County

City Managers and Administrators Group. No member city may have more than one representative on the Board of Directors. The number of directors may be changed from time to time by an amendment to these Bylaws, but no decrease in the number of directors shall have the effect of shortening the term of any incumbent director. The Board shall review the size, make-up and structure of the Board at least once every five (5) years.

4.3. QUALIFICATIONS. In addition to the specific qualifications set forth below, each director must hold an elective office of some city or town within association membership or be a member representative from a member city in good standing to the King County City Managers and Administrators Group. In the event a director ceases to be an elected official or ceases to be employed as the City Manager/Administrator of a member city, his or her position on the Board shall become immediately vacant. Directors may have such other qualifications as the Board may prescribe by amendment to these Bylaws.

4.3.1. Caucus Representative Directors The ten (10) caucus representative directors shall be four (4) chosen from North Caucus, four (4) chosen from South Caucus, one (1) chosen from the South Valley Caucus, and one (1) chosen from the Snoqualmie Valley Caucus as identified in Appendix I.

4.3.2. Chair, Public Issues Committee The chair of the Public Issues Committee shall serve as a director.

4.3.3. City Manager/Administrator Director One director of the Board shall be a member representative of and appointed by the King County City Managers and Administrators Group. This position shall be a voting position.

4.4. ELECTION OF DIRECTORS.

4.4.1. Caucus Representative Directors shall be elected for staggered two year terms. All Caucus representatives will be elected for two-year terms. The Caucuses shall elect Directors at a caucus meeting, held no later than December 31st of each year,

Deleted: prior to December 31st each year at a caucus meeting.

4.4.1(a) Voting Procedures for Election of Caucus Representative Directors

Each member city, prior to the caucus meeting wherein election of caucus representative director(s) is to occur, shall designate one delegate who shall be a duly elected official of such member city, to represent the member city as a voting representative at the caucus meeting, and shall file with SCA's Executive Director written notification of such designation no less than 48 hours prior to the caucus meeting. Member cities' delegates may be changed at any time, provided the Executive Director receives written notice of such change prior to the caucus meeting.

The election shall be conducted by a secret written ballot by those delegates present and qualified to vote. No proxy votes shall be allowed.

All candidates who provide written notice of their candidacy to the SCA Executive Director no less than 48 hours prior to the caucus meeting shall have their names printed on a written ballot prepared by SCA staff. Candidates shall be listed on the ballot alphabetically by last name. Other nominations may be made from the floor and may appear as write-in candidates.

Prior to voting each candidate shall have the privilege of addressing the voting delegates for up to three minutes to present their qualifications for office.

Ballots shall be collected and votes tallied by SCA staff.

If the number of candidates is equal to the number of seats to be filled, the Chair of the caucus meeting may dispense with the requirement for written ballot and allow for election by acclamation if there is no objection.

Single seat election:

Each voting delegate shall be entitled to one vote. The candidate receiving the majority of votes cast shall be elected. In the event that no candidate receives a majority of votes in the first ballot or a subsequent ballot, the candidate (or tied candidates) receiving the lowest number of votes shall be eliminated and balloting shall continue until one candidate receives a majority of votes.

Multiple seat election:

If multiple seats in a caucus are up for election, all candidates for the multiple seats shall be voted on simultaneously. Each voting delegate shall be entitled to cast a number of votes equal to the number of seats in the caucus up for election. A voting delegate may cast no more than one vote per candidate.

A candidate is required to secure votes from a majority of delegates present and voting in order to be elected.

- In the event that the number of candidates receiving votes from a majority of delegates present and voting is equal to the number of seats to be filled, those candidates shall be declared elected.
- In the event that the number of candidates receiving votes from a majority of delegates present and voting exceeds the number of seats to be filled, the candidate(s) receiving the highest number of votes shall be declared elected.
 - In the event of a scenario under this subheading wherein the number of candidates tied for the highest number of votes exceeds the number of seats to be filled, a runoff election shall be held between those top candidates.
 - In the event of a scenario under this subheading wherein there is a tie for second or third place, a runoff election shall be held between those candidates.
- In the event that one or more candidates, but less than the total number of seats to be filled, receive a majority of votes on the first or subsequent ballots, the candidate(s) receiving votes from a majority of voting delegates shall be declared elected. Voting for the remaining seat(s) shall continue with the remaining candidate(s).
- In the event that no candidate receives a majority of votes in the first ballot or a subsequent ballot, the candidate receiving the lowest number of votes shall be eliminated and balloting shall continue.

Tie Votes:

In the event that there is a tie vote in any of the above scenarios, a revote shall be held. In the event that voting remains tied after three rounds of voting, a deadlock shall be declared, and the meeting shall be adjourned. SCA staff shall attempt to reschedule an additional caucus meeting for the purpose of holding an election to break the tie. Should attempts to schedule a caucus meeting with a quorum be unsuccessful, the caucus election shall take place at the next regularly scheduled Public Issues Committee (PIC) meeting. Should the caucus be unable to break the tie at the next caucus meeting/election, the caucus seat shall remain vacant until a vote to break the tie is successful.

Election for a short term:

In the event that one or more of the seats to be filled is a short term caused by a midterm resignation of a caucus representative director, the candidate(s) elected with the lowest number of votes shall be elected to the short term, while the candidate(s) receiving the higher vote total shall be elected to fill the full term vacancy or vacancies. In the case of a tie, or when voting is held by acclamation rather than written ballot, a candidate may also volunteer to serve the short term.

Failure to obtain a quorum:

In the event that there is no quorum at a caucus meeting at which caucus representative director(s) are to be elected, SCA staff shall attempt to reschedule a caucus meeting. Should attempts to schedule a caucus meeting with a quorum be unsuccessful, the caucus election shall take place at the next regularly scheduled Public Issues Committee (PIC) meeting. Should the caucus not have quorum present at the PIC meeting, the caucus seat shall remain vacant until attempts to schedule a caucus meeting with a quorum are successful.

4.4.2. Chair of Public Issues Committee The chair of the Public Issues Committee shall be elected by the committee no later than December 31st of each year and shall serve a term of one year.

Deleted: by

4.4.3. City Manager/Administrator Member shall be a member representative of the King County City Managers and Administrators Group. This director shall be appointed by the group at the first King County City Managers and Administrators Group meeting of the year and shall serve a term of one year.

4.5. TERM OF OFFICE. Unless a director dies, resigns, is removed, or is no longer qualified to serve as a director, he or she shall hold office until the expiration of the term.

A caucus representative director may serve three (3) consecutive terms. If a director is chosen to fill less than fifty percent of an unexpired term, the director is eligible to serve three (3) full terms in addition to the unexpired term. After serving three consecutive terms, a director is ineligible to serve on the Board for a minimum of one (1) year.

Deleted: At the end of their term of office

Directors serving as Chair of Public Issues Committee (PIC) or City Manager/Administrator Member may serve two (2) consecutive terms. If the Chair of Public Issues Committee (PIC) or City Manager/Administrator Member is chosen to fill less than fifty percent of an unexpired term, the director is eligible to serve two (2) full terms in addition to the unexpired term.

Serving as Past President shall toll the limitation on terms of service. The time spent in the Past President role shall not count toward the three-term limit, and also shall not be considered as a one-year break from serving on the Board.

4.6. REGULAR MEETINGS OF THE BOARD. By resolution, the Board may specify the date, time and place for the holding of regular Board meetings without other notice than such resolution. Regular meetings must be held at least quarterly.

4.7. SPECIAL MEETINGS OF THE BOARD. Special meetings of the Board or any committee designated and appointed by the Board may be called by or at the written request of the President or any two directors, or, in the case of a committee meeting, by the chairperson of the committee.

4.8. MEETINGS BY TELEPHONE. In the event of an emergency situation or a meeting of anticipated short length, directors or any committee designated by the Board may participate in and hold a meeting of the Board or committee by means of conference telephone or similar communications

equipment provided all persons participating in the meeting can hear or communicate with each other. Participation in such a meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

4.9. PLACE OF MEETINGS. All Board meetings shall be held at a location within King County, Washington designated by the Board, by any person entitled to call a meeting.

Deleted: or by waiver of notice signed by at least nine directors.

4.10. NOTICE OF SPECIAL MEETINGS. Notice of Board meetings shall be given to a director in writing, by email, or by personal communication with the director not less than five (5) days before the meeting. Notices in writing may be delivered or mailed to the director at his or her address shown on the records of the corporation. Neither the business to be transacted at, nor the purpose of, any special meeting need be specified in the notice of such meeting. If notice is delivered by mail, the notice should be deemed effective when deposited in the official government mail properly addressed with postage thereon prepaid.

4.11. QUORUM. A simple majority of the directors then in office shall constitute a quorum for the transaction of business at any Board meeting. If a quorum is not present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

4.12. MANNER OF ACTING. The act of the majority of the directors present at a meeting at which there is a quorum shall be the act of the Board, unless the vote of a greater number is required by these Bylaws, the Articles of Incorporation or applicable Washington law. Each director, including the President, Immediate Past President, Vice President, and City Manager/Administrator director shall be entitled to debate and vote upon all issues properly before the Board. Votes of the Board shall be recorded in the Board minutes.

4.13. RESIGNATION. Any director may resign at any time with written notice to the President at the registered office of the corporation, or by giving oral or written notice at any meeting of the directors. Any such resignation shall take effect at the time specified therein, or if a time it is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.14. REMOVAL. Any member of the Board of Directors absent for three consecutive meetings, or for any other reason deemed detrimental to the association, may be removed from office by a two-thirds (2/3) vote of the Board of Directors at any time during his or her term at any meeting of the Board. This section shall apply to all directors and is not limited to caucus representatives.

4.15. VACANCIES. Any vacancy occurring in the membership of the Board shall be filled as described above. If the vacancy is of a caucus representative director, a meeting of the caucus shall be called to hold an election pursuant to 4.4.1(a). The election of either a caucus member or PIC Chair representative to the Board may be held at the next scheduled meeting of the Public Issues Committee (PIC). The election to fill a vacant City Manager/City Administrator representative may be held at the next regularly scheduled meeting of the City Mangers/Administrators.

Deleted: In the case of a caucus representative director, a meeting of the caucus shall be called to hold an election pursuant to 4.4.1(a). ¶

4.16. BOARD COMMITTEES.

4.16.1. Standing or Temporary Committees, General The Board, by resolution duly adopted by a majority of the directors present at a meeting at which a quorum is present, may designate and appoint one or more standing or temporary committees. Such committees shall have and exercise the authority of the directors in the management of the corporation, subject to such limitations as may be prescribed by the Board; except, that no committee shall have the authority to: (a) amend, alter or repeal these Bylaws; (b) elect, appoint or remove any member of any other committee or any

director or officer of the corporation; (c) amend the Articles of Incorporation; (d) adopt a plan of merger or consolidation with another corporation; (e) authorize a sale, lease or exchange of all or substantially all of the property and assets of the corporation not within the ordinary course of business; (f) authorize the voluntary dissolution of the corporation or revoke proceedings therefore; (g) adopt a plan for the distribution of the assets of the corporation; and (h) amend, alter or repeal any resolution of the Board or membership that by its terms provides that it shall not be amended, altered or repealed by a committee. The designation or appointment of any such committee and delegation thereto of authorities shall not operate to relieve the Board or any individual director of any responsibility imposed upon it, him or her by law. Only members in good standing may be represented on any committee of the Board.

4.16.2. Quorum; Manner of Acting A simple majority of the number of members composing any committee shall constitute a quorum, and the act of a simple majority of the members of a committee present at a meeting at which a quorum is present shall be the act of the committee unless a greater proportion is required by applicable Washington law, the Articles of Incorporation or these Bylaws.

4.16.3. Resignation Any member of any committee may resign at any time by delivering written notice to the President or the chairperson of such committee, or by giving oral or written notice at any meeting of such committee. Any such resignation will take effect at the time specified therein, or if a time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.16.4. Removal of Committee Member The Board, by resolution adopted by a majority of the directors in office, may remove from office any member of any committee elected or appointed by it.

4.16.5. Executive Committee There shall be an Executive Committee of the Board, composed of the President, Vice President, Immediate Past President, Treasurer, and Secretary. The Executive Committee shall be authorized to exercise such powers as may be delegated to it by the Board.

4.16.6. Finance Committee There shall be a Finance Committee of the Board which shall be chaired by the Treasurer of the Board, and shall consist of at least two additional board members. In addition, at the discretion of the Board, the Finance Committee may include an additional member who is a City Manager/Administrator or Finance Director of a member city in order to provide technical assistance and financial expertise to the Committee. The Finance Committee shall provide financial oversight of the corporation, and shall recommend an annual budget to the Board.

4.16.7. Public Issues Committee There shall be a Public Issues Committee which shall review and evaluate policy positions and recommend to the Board what, if any, action should be taken on such policy positions.

a. Membership shall consist of one representative and one alternate from each member city. Each representative or alternate must hold an elective office in the city or town they represent.

b. Committee Leadership shall be a Chair and Vice-chair elected by the committee and may serve up to two consecutive one-year terms. The Chair shall establish the agenda in advance of each meeting in conjunction with the Executive Director. The Chair shall appoint subcommittees as needed.

c. Regular Meetings shall be held monthly or as deemed necessary.

d. Special Meetings may be called by the Chair of the committee or at the request of the Board in an emergency situation. Single issue emergency meetings may be held by conference call.

e. Quorum; Manner of Acting. Fifty-one percent of the members of the committee, represented in person, shall constitute a quorum at a meeting of the committee. If less than a quorum of the members is represented at a meeting, a majority of the members so represented may adjourn the meeting. The vote of two thirds (2/3) represented in person at a meeting at which a quorum is present shall be necessary for the advancement of a public policy position to the Board. Votes shall be recorded in the minutes of the PIC meeting. Votes shall be in the name of the member city, rather than the individual representing the city.

Issues will be heard at one regularly scheduled meeting for discussion and may return no sooner than the next regularly scheduled meeting for action. If not immediately addressing a policy issue renders SCA unable to take a position on a timely basis, 85% of those present at a regularly scheduled meeting may declare an issue an emergency and the issue may be discussed and voted upon at the same meeting.

f. Vacancies on the committee are to be filled immediately by the member city responsible for the vacancy.

g. Regional Committee Appointments shall be recommended to the Board by the PIC, and the Board shall act upon the recommendation of the PIC no later than December 31st each year. Additional recommendations may be made as vacancies occur throughout the year. A nominating committee of the Public Issues Committee consisting of one representative of each SCA Regional Caucus shall be appointed annually by the Chair of the Public Issues Committee in October to recommend appointments to the committee.

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Deleted: Members shall serve for a period of one year.

Appointees to major regional committees shall be selected from among elected officials otherwise qualified to serve in such positions, in accordance with the terms of the enabling documents creating such boards and committees. Appointees shall represent the positions of all the member cities. Equitable geographic distribution shall be considered in recommending appointments to the Board of Directors.

Any appointee absent for three consecutive meetings, or for any other reason deemed detrimental to the association, may be removed from office by a two-thirds (2/3) vote of the Board of Directors at any time during his or her term at any meeting of the Board.

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Cities within King County who are not members of the Association may make recommendations to the nominating committee and be appointed to regional committees.

No member shall serve more than six (6) consecutive years on a regional board or committee appointed by SCA. This limitation shall not apply to alternates to regional boards and committees. Once a member has served six (6) consecutive years on a regional board or committee, s/he shall be ineligible to serve on said

committee for a minimum of one (1) year. This limitation shall be effective beginning with appointments to 2014 regional boards and committees.

In extraordinary circumstances, the Board may make exceptions to the six-year term limit upon the recommendation of the PIC nominating committee and the PIC when a supermajority (2/3) of Board members present and voting at a meeting finds that doing so would be in the best interests of SCA and its member cities.

4.16.8. Board Nominating Committee There shall be a Nominating Committee of the Board appointed by the President no later than November 15th of each year. The President shall appoint a committee of four members including the Immediate Past-President and regionally balanced representation. Notice of such appointments and the date of the place of the first meeting of the Nominating Committee shall be given to each member immediately following said appointments. Members of the Nominating Committee shall not be eligible to run for an officer position during the year in which they serve on the Nominating Committee.

The Nominating Committee shall meet in advance of the January meeting of the Board of Directors and shall select a chairperson from its own membership and compile a list of potential candidates for the following positions: ~~President, Vice President, Secretary, and~~ Treasurer of the corporation.

Deleted: (a) at least one elected official of the Board of Directors for each of the offices of President, Vice President,

Deleted: respectively and (b) at one elected official of the Board of Directors for the Director-at large position on the Executive Committee.¶

Following the first meeting of the Nominating Committee and prior to the January meeting of the Board of Directors, the Nominating Committee shall report its initial list of candidates to the Board. The President shall invite additional nominations for positions to be made from the floor by any director after reading an acceptance of the Nominating Committee's final report; provided, however, that nominations from the floor, which must be seconded, shall designate the office or represented position to be filled and the nominee has agreed to comply with the responsibilities of the position for which he/she is being nominated.

4.17. COMPENSATION. The directors shall receive no compensation for their service as directors but may receive reimbursement for expenditures incurred on behalf of the corporation.

ARTICLE 5. OFFICERS

Deleted: AND EXECUTIVE DIRECTOR

5.1. NUMBER AND QUALIFICATIONS. The officers of the corporation shall be a President, Vice President, Secretary, Treasurer, and an Immediate Past President. Other officers and assistant officers may be elected or appointed by the Board, such officers and assistant officers to hold office for such period, have such authority and perform such duties as provided in these Bylaws or as may be provided by resolution of the Board. Any officer may be assigned by the Board and any additional title that the Board deems appropriate. The President, Vice President, and Immediate Past President must hold an elected office of a member city or town. In the event an officer ceases to be an elected official, his or her position shall immediately become vacant.

5.2. ELECTION AND TERM OF OFFICE. The President, Vice President, Secretary, and Treasurer of the corporation shall be elected each January by the Board of Directors. At the end of his or her term as President, the President shall serve as Immediate Past President. Unless an officer dies, resigns, is removed from office, or is no longer qualified to serve as an officer, he or she shall hold office for one year.

5.3. RESIGNATION. Any officer may resign at any time by delivering written notice to the President, Vice President, or the Board, or by giving oral or written notice at any meeting of the Board. Any such resignation shall take effect at the time specified therein, or if a time is not specified, upon

delivery thereof, and unless otherwise specified therein, acceptance of such resignation shall not be necessary to make it effective.

5.4. REMOVAL. Any officer or the Executive Director elected or appointed by the Board may be removed from office by the Board whenever in its judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

5.5. VACANCIES. A vacancy in any office created by the resignation, removal, disqualification, creation of a new office or any other cause may be filled by the Board for the unexpired term.

5.6. PRESIDENT. The President, subject to the Board's control, shall supervise and control all of the assets, business and affairs of the corporation. The President shall preside at all meetings of the members and the Board and at all meetings of the Executive Committee. The President may sign contracts or other instruments, except when the signing and execution thereof have been expressly delegated by the Board or by these Bylaws to some other officer or agent of the corporation, or are required by law to be otherwise signed or executed by some other officer or in some other manner. In general, the President shall perform all duties incident to the office of President and such other duties assigned to him or her by the Board from time to time.

5.7. VICE PRESIDENT. In the event the President vacates his/her office prior to the end of the term, the Vice President shall perform the duties of the President, except as may be limited by the resolution of the Board, with all the powers of and subject to all restrictions upon the President. The Vice President shall have, to the extent authorized by the President or the Board, the same powers as the President to sign contracts or other instruments. The Vice President shall perform such other duties as from time to time may be assigned to him or her by the President or the Board.

5.8. TREASURER. The Treasurer, subject to the Board's control, shall provide a leadership position within the Board in the area of fiscal review.

5.9. SECRETARY, The Secretary shall, In addition to his or her duties as a director and a member of the Executive Committee, perform all duties incident to the Secretary and such other duties as may from time to time be assigned to him or her by the President or the Board.

5.10. IMMEDIATE PAST PRESIDENT. Upon expiration of his or her term as President, the President shall serve as Immediate Past President. In addition to his or her duties as a director and a member of the Executive Committee, the Immediate Past President shall perform such duties assigned to him or her by the Board from time to time.

5.11. COMPENSATION. The President, Vice President, Treasurer, Secretary, and Immediate Past President shall receive no compensation for their services as officers but may receive reimbursement for expenditures incurred on behalf of the corporation.

ARTICLE 6. ADMINISTRATIVE PROVISIONS

6.1. FINANCES. The finances of the corporation shall comprise of membership fees of the members and other moneys as may be received from other sources. All membership fees and other moneys shall be paid to the corporation, which shall deposit all such moneys in an approved financial institution. All expenditures of the corporation shall be made in accordance with the annual budget adopted by or as amended by the Board.

Deleted: ; EXECUTIVE DIRECTOR

Deleted: There shall be an Executive Director who shall be selected and appointed by the Board and who shall also be elected by the Board to act as Secretary of the corporation. Such Executive Director shall manage the business of the corporation and principal office of the corporation, supervise all staff and contract employees, and attend all correspondence. The Executive Director shall submit an annual report and financial statement at each annual membership meeting, showing all receipts and expenditures of the corporation for the previous year. The Executive Director shall submit an annual budget to the Finance Committee for the coming fiscal year.¶
The Executive Director as Secretary shall: (a) keep the minutes of the meetings of the members and the Board, and minutes which may be maintained by committees of the Board; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records of the corporation; (d) keep records of the post office address and class, if applicable, of each member and director and of the name and post office address of each officer; (e) sign contracts or other instruments; and (f) in general, perform all duties incident

6.2. BOOKS AND RECORDS. The corporation shall keep at its principal or registered office copies of its current Articles of Incorporation and Bylaws; correct and adequate records of accounts and finances; minutes of the proceedings of its members and Board, and any minutes that may be maintained by committees of the Board; records of the name and address and class, if applicable, of each member and director, and of the name and post office address of each officer; and such other records as may be necessary or advisable. All books and records of the corporation shall be opened by request at any reasonable time for inspection by any member of three months standing or to a representative of more than 5% of the membership.

6.3. ACCOUNTING YEAR. The accounting year of the corporation shall be twelve (12) months ending December 31 of each year.

6.4. RULES OF PROCEDURE. The rules of procedure at meetings of the members, Board and committees of the Board shall be governed by rules contained in Robert's Rules of Order Newly Revised, Eleventh Edition, so far as applicable when not inconsistent with these Bylaws, the Articles of Incorporation or any resolution of the Board.

Deleted: Robert's Rules of Order on Parliamentary Procedure, newly revised, so far as applicable when not inconsistent with these

6.5. STAFF. The administration of Association routine operations shall be the responsibility of salaried staff, under the leadership of an Executive Director appointed by the Board.

ARTICLE 7. SPOKESPERSONS AND REPRESENTATIVES OF THE ASSOCIATION

Any elected official or other person who represents the member cities of this Association shall undertake to represent the interests of the group of cities as a whole or of the Association, and not the interests of their individual city. Representatives named by any Regional Caucus for appointment to regional forums and spokespersons identified by the Board or any committees shall represent the interests of the entire class of cities which they are charged with representing.

ARTICLE 8. AMENDMENTS

These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted at the annual meeting of the membership by the affirmative vote of two-thirds of the voting members present.

Deleted: quorum

ARTICLE 9. DISSOLUTION

The Association may dissolve and conclude its affairs by the Board of Directors adopting a resolution in accordance with Chapter 24.03 RCW (Washington Non-profit Corporation Act) recommending that the Association be dissolved and directing that the question of dissolution be put to a vote of the entire voting membership. A resolution recommending dissolution shall be mailed to the member cities and towns at least twenty (20) days prior to the meeting at which the vote on dissolution is to be taken. A resolution recommending dissolution must be approved by a vote of at least sixty (60%) per cent of the member cities and towns qualified to vote. If dissolution occurs, the assets of the Association shall be disposed of and the proceeds distributed to member cities and towns in a formula identical to that in which Association dues and assessments are assessed.

* * * * *

CERTIFICATE OF ADOPTION

The undersigned, being the President of SCA, hereby certifies that the foregoing is a true and correct copy of the Amended Bylaws adopted by vote of the Membership of the corporation on December 4, 2019.

Deleted: 2, 2015

Leanne Guier, President

Deleted: Matt Larson

Appendix I.

The caucuses shall be comprised as follows:

NORTH CAUCUS	SOUTH CAUCUS	SNOQUALMIE VALLEY CAUCUS	
Village of Beaux Arts	City of Auburn	City of Carnation	
City of Bellevue	City of Burien	City of Duvall	
City of Bothell	City of Covington	City of North Bend	
City of Clyde Hill	City of Des Moines	City of Skykomish	
Town of Hunts Point	City of Federal Way	City of Snoqualmie	
City of Issaquah	City of Kent	Total 2019 Population 30,900	Deleted: 2016
City of Kenmore	City of Maple Valley		Deleted: 29,155
City of Kirkland	City of Normandy Park	SOUTH VALLEY CAUCUS	
City of Lake Forest Park	City of Renton	City of Algona	
City of Medina	City of SeaTac	City of Black Diamond	
City of Mercer Island	City of Tukwila	City of Enumclaw	
City of Newcastle	Total 2019 Population 590,840	City of Milton	Deleted: 2016
City of Redmond		City of Pacific	Deleted: 564,810
City of Sammamish		Total 2019 Population 27,985	Deleted: 2016
City of Shoreline		Population per OFM.	Deleted: 26,795
City of Woodinville		All caucuses subject to payment of 2020 dues as approved.	Deleted: 2017
<u>City of Yarrow Point</u>			Deleted: 2016
Total 2019 Population 581,000			Deleted: 550,580