

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 16-0428**

AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON, ADDRESSING KENMORE MUNICIPAL CODE REGULATIONS FOR THE USE OF LOW IMPACT DEVELOPMENT BEST MANAGEMENT PRACTICES AND PRINCIPLES WITHIN THE CITY; AMENDING CHAPTERS 12.50, STREET STANDARDS, AND 12.70, SIDEWALKS, PLANTING STRIPS AND STREET TREES; ADOPTING A NEW CHAPTER 13.18, DEFINITIONS; AMENDING SECTION 13.30.030, SURFACE WATER MASTER PLAN; REPEALING EXISTING CHAPTER 13.35, SURFACE WATER RUNOFF POLICY; ADOPTING NEW CHAPTER 13.35, SURFACE WATER RUNOFF POLICY; REPEALING CHAPTER 13.40, SURFACE WATER MANAGEMENT PROGRAM; ADOPTING NEW CHAPTER 13.40, SURFACE WATER MANAGEMENT PROGRAM; REPEALING EXISTING CHAPTER 13.45, WATER QUALITY; ADOPTING NEW CHAPTER 13.45, WATER QUALITY; AMENDING CHAPTER 15.25, LAND ALTERATIONS; AMENDING SECTION 17.20.130, LOT SEGREGATIONS – CLUSTERED DEVELOPMENT; AMENDING CHAPTERS 18.20, TECHNICAL TERMS AND DEFINITIONS, 18.21, RESIDENTIAL ZONES, 18.23, COMMUNITY BUSINESS ZONE, 18.25, DOWNTOWN COMMERCIAL ZONE, 18.25A, URBAN CORRIDOR ZONE, 18.25B, WATERFRONT COMMERCIAL ZONE, 18.26, REGIONAL BUSINESS ZONE, 18.27, PUBLIC AND SEMI-PUBLIC ZONE, 18.28, PARKS ZONE, 18.28A, GOLF COURSE ZONE, 18.29, TRANSIT ORIENTED DEVELOPMENT (TOD) DISTRICT OVERLAY, 18.30, DEVELOPMENT STANDARDS – GENERAL, 18.35, DEVELOPMENT STANDARDS – LANDSCAPING, 18.40, DEVELOPMENT STANDARDS – PARKING AND CIRCULATION, 18.50, DEVELOPMENT STANDARDS – DESIGN REQUIREMENTS FOR SPECIFIC USES, AND 18.52, DOWNTOWN DESIGN STANDARDS; ADOPTING SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Washington State Department of Ecology, authorized by the United States Environmental Protection Agency, through the City’s National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit, requires that the City integrate low impact development (LID) principles and best management practices (BMPs) into its regulations and codes by December 31, 2016; and

WHEREAS, on October 7, 2014, the Planning Commission recommended Council adoption of the proposed amendments to the Surface Water Element of the Comprehensive Plan, including Policy SW-1.1.4 that states “Where feasible, the City will make low impact development (LID) the preferred and commonly-used approach to site development.”; and

WHEREAS, on November, 17, 2014, the City Council approved the update to the Surface Water Element of the Comprehensive Plan; and

WHEREAS, on April 20, 2015, the City Council adopted the Surface Water Master Plan, which included a review and discussion of surface water management policies and codes, including the integration of low impact development principles and best management practices; and

WHEREAS, the City's Responsible Official under the State Environmental Policy Act issued a determination of non-significance for the proposed amendments; and

WHEREAS, the Washington State Department of Commerce was notified of the proposed amendments pursuant to RCW 36.70A.106; and

WHEREAS, on September 13, 2016, the City Council reviewed and considered the proposed amendments; and

WHEREAS, on September 27, 2016, the City held a morning public open house on the proposed amendments to obtain public input; and

WHEREAS, on September 29, 2016, the City held an afternoon public open house on the proposed amendments to obtain public input; and

WHEREAS, on October 24, 2016, the City held an evening public open house on the proposed amendments to obtain public input; and

WHEREAS, on October 24, 2016, the City Council continued its review and consideration of the proposed amendments; and

WHEREAS, on November 14, 2016, the City Council held a public hearing and continued its review and consideration of the proposed amendments; and

WHEREAS, the proposed amendments are consistent with the Growth Management Act and the countywide planning policies through planning for infrastructure growth while protecting a high quality of life; and

WHEREAS, the proposed amendments are consistent with the policies, objectives, and goals of the Comprehensive Plan, and do not create an inconsistency within the Plan; and

WHEREAS, amendments to multiple chapters of the municipal code are proposed to eliminate inconsistencies and ensure that the proposed amendments do not duplicate or conflict with other portions of the Kenmore Municipal Code; and

WHEREAS, the proposed amendments also address changed circumstances by adopting regulations that are consistent with federal law relating to surface water management; and

WHEREAS, on November 28, 2016, the City Council approved the adoption of the proposed amendments;

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

Section 1. Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of this Ordinance. The City Council hereby finds that decision criteria set forth in KMC 19.20.090, for the amendment of development regulations, has been met. This finding is based on the incorporated recitals and the record created before the City Council.

Section 2. Amendments to Chapters 12.50, and 12.70 of the Kenmore Municipal Code. The City Council amends Chapters 12.50, Street Standards, and 12.70, Sidewalks, Planting Strips and Street Trees, of the Kenmore Municipal Code to read as set forth in Attachment A, attached hereto and incorporated herein by reference.

Section 3. Amendments to Section 13.30.030, of the Kenmore Municipal Code. The City Council amends Chapters 12.30.030, Surface Water Master Plan, of the Kenmore Municipal Code to read as set forth in Attachment B, attached hereto and incorporated herein by reference.

Section 4. Adoption of new Chapter 13.32 of the Kenmore Municipal Code. The City Council adopts a new Chapter 13.32, Technical Terms and Definitions, of the Kenmore Municipal Code to read as set forth in Attachment C, attached hereto and incorporated herein by reference.

Section 5. Repeal of Chapter 13.35 of the Kenmore Municipal Code. The City Council repeals existing Chapter 13.35, Surface Water Runoff Policy, of the Kenmore Municipal Code.

Section 6. Adoption of new Chapter 13.35 of the Kenmore Municipal Code. The City Council adopts a new Chapter 13.35, Surface Water Runoff Policy, of the Kenmore Municipal Code to read as set forth in Attachment D, attached hereto and incorporated herein by reference.

Section 7. Repeal of Chapter 13.40 of the Kenmore Municipal Code. The City Council repeals existing Chapter 13.40, Surface Water Management Program, of the Kenmore Municipal Code.

Section 8. Adoption of new Chapter 13.40 of the Kenmore Municipal Code. The City Council adopts a new Chapter 13.40, Surface Water Management Program, of the Kenmore Municipal Code to read as set forth in Attachment E, attached hereto and incorporated herein by reference.

Section 9. Repeal of Chapter 13.45 of the Kenmore Municipal Code. The City Council repeals existing Chapter 13.45, Water Quality, of the Kenmore Municipal Code.

Section 10. Adoption of new Chapter 13.45 of the Kenmore Municipal Code. The City Council adopts a new Chapter 13.45, Water Quality, of the Kenmore Municipal Code to read as set forth in Attachment F, attached hereto and incorporated herein by reference.

Section 11. Amendments to Chapter 15.25 of the Kenmore Municipal Code. The City Council adopts amendments to Chapter 15.25, Land Alterations, of the Kenmore Municipal Code to read as set forth in Attachment G, attached hereto and incorporated herein by reference.

Section 12. Amendments to Section 17.20.130 of the Kenmore Municipal Code. The City Council adopts amendments Section 17.20.130, Lot Segregations – Clustered Development, of the Kenmore Municipal Code to read as set forth in Attachment H, attached hereto and incorporated herein by reference.

Section 13. Amendments to Chapters 18.20, 18.21, 18.23, 18.25, 18.25A, 18.25B, 18.26, 18.27, 18.28, 18.28A, 18.29, 18.30, 18.35, 18.40, 18.50, 18.52 of the Kenmore Municipal Code. The City Council adopts amendments to Chapters 18.20, Technical Terms and Definitions, 18.21, Residential Zones, 18.23, Community Business Zone, 18.25, Downtown Commercial Zone, 18.25A, Urban Corridor Zone, 18.25B, Waterfront Commercial Zone, 18.26, Regional Business Zone, 18.27, Public and Semi-Public Zone, 18.28, Parks Zone, 18.28A, Golf Course Zone, 18.29, Transit Oriented Development (TOD) District Overlay, 18.30, Development Standards – General, 18.35, Development Standards – Landscaping, 18.40, Development Standards – Parking and Circulation, 18.50, Development Standards – Design Requirements for Specific Uses, and 18.52, Downtown Design Standards, of the Kenmore Municipal Code to read as set forth in Attachment I, attached hereto and incorporated herein by reference.

Section 14. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance, or the application of the provision to other persons or circumstances, is not affected.

Section 15. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 28th DAY OF NOVEMBER, 2016.

ATTEST/AUTHENTICATED:

CITY OF KENMORE

Patty Safrin, City Clerk

David Baker, Mayor

Approved as to form:

Rod P. Kaseguma, City Attorney

Filed with the City Clerk:

Passed by the City Council:

Ordinance No.:

Date of Publication:

Effective Date:

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ATTACHMENT A – AMENDMENTS TO CHAPTERS 12.50 AND 12.70

TITLE 12 – STREETS AND BRIDGES

Chapter 12.50 – Street Standards

12.50.010 – Adoption:

B. Consistent with the council’s direction and intent in adopting the standards, the department of public works is hereby authorized to develop public rules and make minor changes to the standards, or the referenced companion documents, in order to better implement the standards and as needed to stay current with changing design, environmental, and construction technology and methods.

Chapter 12.70 – Sidewalks, Planting Strips and Street Trees

12.70.010 – Definitions:

A. “Curb” means a cement, concrete or asphaltic concrete raised structure designed to delineate the edge of the streetway and to separate the vehicular portion from that provided for pedestrians and to control surface drainage.

B. “Planting strip” means that portion of the right-of-way behind the curb line and between the curb line and the sidewalk or between the sidewalk and the right-of-way line used for the planting of trees, grass, shrubs or ground cover. Landscape-based stormwater management facilities may also be placed within this area where feasible.

C. “Sidewalk” means that property between the curb line and the adjacent property, set aside and intended for the use of pedestrians, improved by paving with permeable or impermeable cement concrete or asphaltic concrete.

12.70.040 – Planting Strip Maintenance:

Maintenance of planting strips including trees, shrubbery, grass, landscape-based stormwater management facilities, or other ground cover shall be the responsibility of the abutting property owner. Should the director of public works find that such property is not being properly maintained, a notice shall be forwarded as provided in KMC 12.70.030 specifying a reasonable time within which such maintenance shall be accomplished. If the owner fails to proceed, the department of public works will have the maintenance performed, and the cost will be assessed against the property owner as provided in KMC 12.70.030.

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ATTACHMENT B – AMENDMENTS TO SECTION 13.30.030

**CHAPTER 13.30
GENERAL PROVISIONS**

Sections:

- 13.30.010 Surface water utility established.
- 13.30.020 Stormwater utility fund created.
- 13.30.030 Surface water management plan.
- 13.30.040 Penalty.

13.30.010 Surface water utility established.

Pursuant to RCW [35.67.020](#), the City hereby determines to conduct, maintain and operate a stormwater utility. [Ord. 98-0016 § 1.]

13.30.020 Stormwater utility fund created.

There is hereby created a stormwater utility fund, into which all rates and charges shall be placed. [Ord. 98-0016 § 4.]

13.30.030 Surface water mastermanagement plan.

The City hereby adopts by reference the 2015 City of Kenmore Surface Water Master Plan, attached to the ordinance codified in this section as Exhibit A.* [Ord. ~~16-0428~~16-0428 § 1.]

*Code reviser's note: Exhibit A is on file in the office of the city clerk.

13.30.040 Penalty.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished as set forth in Chapter [1.15](#) KMC. [Ord. 98-0016 § 5.]

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ATTACHMENT C – ADOPTION OF NEW CHAPTER 13.32

**CHAPTER 13.32
TECHNICAL TERMS AND DEFINITIONS**

Sections:

- 13.32.010 Scope of Chapter.
- 13.32.020 Adjustment
- 13.32.030 AKART
- 13.32.040 Applicant
- 13.32.050 Basin
- 13.32.060 Basin plan
- 13.32.070 Best Management Practices
- 13.32.080 City
- 13.32.090 City Manager
- 13.32.100 Clean Water Act
- 13.32.110 Closed Depression
- 13.32.120 Construct or modify
- 13.32.130 Conveyance system
- 13.32.140 County
- 13.32.150 Developed parcel
- 13.32.160 Development
- 13.32.170 Discharge
- 13.32.180 Drainage
- 13.32.190 Drainage easement
- 13.32.200 Drainage facility

13.32.210 Drainage review

13.32.220 Erosion and sediment control

13.32.230 Financial guarantee

13.32.250 Flow control BMP

13.32.260 Flow control BMP design and maintenance details

13.32.270 Flow control BMP site plan (FCBMP site plan)

13.32.280 Flow control facility

13.32.290 Full drainage review

13.32.300 Hard surface

13.32.310 Groundwater

13.32.320 High-use site

13.32.330 Hydraulically connected

13.32.340 Impervious surface

13.32.350 Improvement

13.32.370 Land disturbing activity

13.32.390 Landslide hazard drainage area

13.32.410 Licensed civil engineer

13.32.420 LID

13.32.430 LID best management practices (LID BMPs)

13.32.440 LID principles

13.32.450 Low impact development

13.32.460 Maintenance

13.32.480 MS4

13.32.490 Municipal separate storm sewer system

13.32.500 Native vegetated surface

13.32.510 National Pollutant Discharge Elimination System

13.32.520 Natural discharge location

13.32.530 New impervious surface

13.32.540 New pervious surface

13.32.550 New pollution generating impervious surface (New PGIS)

13.32.560 New pollution generating pervious surface (New PGPS)

13.32.570 NPDES

13.32.580 Open space

13.32.590 Parcel

13.32.600 Permeable pavement

13.32.610 Permeable soils

13.32.620 Person

13.32.630 Pervious surface

13.32.640 Pollution generating impervious surface (PGIS)

13.32.650 Pollution generating pervious surface (PGPS)

13.32.660 Project

13.32.670 Project site

13.32.680 Rate Category

13.32.690 Redevelopment project

13.32.700 Replaced impervious surface

13.32.710 Replaced pollution generating impervious surface (Replaced PGIS)

13.32.720 Residence

13.32.730 Residential parcel

13.32.740 Runoff

13.32.770 Shared facility

13.32.790 Site

13.32.800 Stormwater

13.32.820 Stormwater pollution prevention manual

13.32.830 Sub-basin

13.32.840 Surface water

13.32.850 Surface water design manual (SWDM)

13.32.860 Surface water and stormwater management

13.32.870 Stormwater management program

13.32.880 Stormwater management program plan

13.32.890 Surface water master plan

13.32.900 Targeted drainage review

13.32.910 Undeveloped parcel

13.32.920 Waters of the state

13.32.930 Water quality treatment facility

13.32.940 Western Washington phase II municipal stormwater permit

13.32.010 Scope of Chapter

The definitions of this chapter shall apply to Title 13 Division II KMC, and shall prevail over any conflicting definition in the Surface Water Design Manual, as defined in this chapter.

13.32.020 Adjustment

"Adjustment" means a variation from the requirements of KMC [13.35.050](#) and the Surface Water Design Manual approved by the city manager for a particular project in accordance with KMC [13.35.050\(C\)](#). The term "adjustment" replaces the term "variance," which was used in prior editions of the Surface Water Design Manual.

13.32.030 AKART

"AKART" means "all known, available, and reasonable methods of prevention, control, and treatment." AKART represents the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. "AKART" applies to both point and nonpoint sources of pollution.

13.32.040 Applicant

"Applicant" means a property owner or a public agency or public or private utility which owns a right-of-way or other easement, or has been adjudicated the right to such an easement pursuant to RCW [8.12.090](#), or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

13.32.050 Basin

"Basin" means a geographic area that contains or drains to a stream or river named or noted on common maps, such as Swamp Creek, or a geographic area that drains to a nonflowing water body named and noted on common maps, such as Lake Washington.

13.32.060 Basin plan

"Basin plan" means a plan and all implementing regulations and procedures including, but not limited to, capital projects, public education activities and land use management adopted by ordinance for managing ~~surface and stormwater~~[surface water and stormwater](#) within individual subbasins.

13.32.070 Best Management Practices

"Best Management Practices" or "BMPs" means the best available and reasonable physical, structural, managerial, or behavioral activities, that, when used singly or in combination, eliminate or reduce the contamination of both surface and groundwaters.

13.32.080 City

"City" means the City of Kenmore.

13.32.090 City Manager

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

13.32.100 Clean Water Act

"Clean Water Act" means 33 U.S.C. 1251 et seq., as amended.

13.32.110 Closed Depression

"Closed depression" means an area greater than 5,000 square feet at overflow elevation that is low-lying and that has no or such a limited surface water outlet that the area acts as a stormwater retention facility.

13.32.120 Construct or modify

"Construct or modify" means to install a new drainage pipe or ditch or make improvements to an existing drainage pipe or ditch, for purposes other than maintenance, that either serves to concentrate previously unconcentrated ~~surface and stormwater~~surface water and stormwater runoff, or serves to increase, decrease and/or redirect the conveyance of ~~surface and stormwater~~surface water and stormwater runoff. "Construct or modify" does not include installation or maintenance of a driveway culvert installed as part of a single-family residential building permit.

13.32.130 Conveyance system

"Conveyance system" means the drainage facilities and features, both natural and constructed, which collect, contain and provide for the flow of ~~surface and stormwater~~surface water and stormwater from the highest points on the land down to a receiving water. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes and wetlands. The constructed elements of the conveyance system include gutters, ditches, pipes, channels and most flow control and water quality treatment facilities.

13.32.140 County

"County" means King County, Washington.

13.32.150 Developed parcel

"Developed parcel" means any parcel altered from its native state by the construction, creation or addition of impervious or pervious surfaces, including the alteration of soil conditions, ground cover, and species of vegetation (such as landscaping).

13.32.160 Development

"Development" means any activity that requires a permit or approval, including, but not limited to, a building permit, grading permit, shoreline substantial development permit, conditional use permit, special use permit, zoning variance, zone reclassification, subdivision, short subdivision, binding site plan, site plan review or right-of-way use permit.

13.32.170 Discharge

"Discharge" means throw, drain, release, dump, spill, empty, emit, or pour forth any matter or to cause or allow matter to flow, run, or seep from land or be thrown, drained, released, dumped, spilled, emptied, emitted or poured into water.

13.32.180 Drainage

"Drainage" means the collection, conveyance, containment or discharge, or any combination thereof, of ~~surface and stormwater~~surface water and stormwater runoff.

13.32.190 Drainage easement

"Drainage easement" means a legal encumbrance that is placed against a property's title to reserve specified privileges for the users and beneficiaries of the drainage facilities contained within the boundaries of the easement.

13.32.200 Drainage facility

"Drainage facility" means a constructed or engineered feature that collects, conveys, stores, treats, or otherwise manages stormwater runoff or surface water. "Drainage facility" includes, but is not limited to, a constructed or engineered stream, lake, wetland, or closed depression, or a pipe, channel, ditch, gutter, flow control facility, flow control BMP, water quality facility, erosion and sediment control facility, and any other structure and appurtenance that provides for drainage.

13.32.210 Drainage review

“Drainage review” means an evaluation by the City staff of a proposed project’s compliance with the drainage requirements in the Surface Water Design Manual. The types of drainage review include: simplified drainage review, targeted drainage review, directed drainage review, full drainage review and large project drainage review.

13.32.220 Erosion and sediment control

“Erosion and sediment control” means any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation and ensure that sediment-laden water does not leave the site or enter into wetlands or aquatic areas.

13.32.230 Financial guarantee

“Financial guarantee” means a form of financial security posted to do one or more of the following: ensure timely and proper completion of improvements; ensure compliance with this code; or provide secured warranty of materials, workmanship of improvements and design. “Financial guarantee” includes assignments of funds, cash deposit, surety bonds or other forms of financial security acceptable to the city manager. “Performance guarantee,” “maintenance guarantee” and “defect guarantee” are considered subcategories of financial guarantee.

~~13.20.240 Flood hazard reduction plan~~

~~“Flood hazard reduction plan” means a plan and all the implementing programs, regulations and procedures including, but not limited to, capital projects, public education activities and enforcement programs for reduction of flood hazards and prepared in accordance with RCW 86.12.200.~~

Commented [A1]: DELETE – King County reference.

13.32.250 Flow control BMP

“Flow control BMP” means a small scale drainage facility or feature that is part of a development site strategy to use processes such as infiltration, dispersion, storage, evaporation, transpiration, forest retention, and reduced impervious surface footprint to mimic pre-developed hydrology and minimize stormwater runoff.

13.32.260 Flow control BMP design and maintenance details

“Flow control BMP design and maintenance details” means the diagrams/figures, design specifications, and maintenance instructions for each flow control BMP proposed on an individual site/lot that does not

contain a flow control or water quality facility. These details are intended to be recordable to facilitate attachment to the declaration of covenant and grant of easement required for implementation of flow control BMPs on individual sites/lots. The City may waive all or a portion of this component if it determines there is no need to specify design details or maintenance instructions for certain proposed BMPs.

13.32.270 Flow control BMP site plan (FCBMP site plan)

"Flow control BMP site plan (FCBMP site plan)" means a scale drawing of an individual site/lot used to show how required flow control BMPs will be applied to the target surfaces of an individual site/lot that does not contain a flow control or water quality facility. The FCBMP site plan is intended to be a recordable document (or reducible to a recordable document) that can be attached to the declaration of covenant and grant of easement required for implementation of flow control BMPs on individual sites/lots. DPER may allow a written version of this plan if they determine there is no need to illustrate the size and location of proposed flow control BMPs.

13.32.280 Flow control facility

"Flow control facility" means a drainage facility designed to mitigate the impacts of increased ~~surface and stormwater~~surface water and stormwater runoff generated by site development pursuant to the drainage requirements in Title 13 Division II KMC. Flow control facilities are designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into the ground or to hold runoff for a short period of time and then release it to the conveyance system.

13.32.290 Full drainage review

"Full drainage review" means the evaluation required by KMC 13.35.040 of a proposed project's compliance with the full range of core and special requirements in the surface water design manual. Full drainage review is required for any proposed project, unless the project is subject to simplified drainage review, targeted drainage review, directed drainage review, or large project drainage review that (1) would result in two thousand square feet or more of new plus replaced impervious surface; or (2) would result in 7,000 square feet or more of land disturbing activity.

13.32.300 Hard surface

"Hard surface" means an impervious surface, a permeable pavement, or a vegetated roof.

13.32.310 Groundwater

"Groundwater" means all waters that exist beneath the land surface or beneath the bed of any stream, lake, or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

13.32.320 High-use site

"High-use site" means a commercial, industrial or street intersection site that generates a higher-than-average number of vehicle turnovers or has other characteristics that generate the potential for chronic oil accumulation. High-use sites include:

1. Commercial or industrial sites subject to:
 - a. An expected daily traffic count greater than 100 vehicles per 1,000 square feet of gross building area;
 - b. Petroleum storage or transfer in excess of 1,000 gallons per year, not including routine fuel oil storage or transfer; or
 - c. Use, storage or maintenance of a fleet of 25 or more diesel vehicles each weighing over 10 tons; or
2. Street intersections with average daily traffic counts of 25,000 vehicles or more on the main streetway and 15,000 or more vehicles on any intersecting streetway (excluding pedestrian or bicycle use improvement projects).

13.32.330 Hydraulically connected

"Hydraulically connected" means connected through surface flow or water features such as wetlands or lakes.

13.32.340 Impervious surface

"Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions 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 (see also "new impervious surface"). 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. For the purposes of applying the impervious surface thresholds

and exemptions contained in the surface water design manual, permeable pavement, vegetated roofs, and pervious surfaces with underdrains designed to collect stormwater runoff are considered impervious surface while an open uncovered flow control or water quality facility is not. However, for the purposes of computing runoff, uncovered flow control or water quality facilities shall be modeled as impervious surfaces.

13.32.350 Improvement

"Improvement" means a permanent, human-made physical change to land or real property including, but not limited to, buildings, streets (with or without curbs or gutters), sidewalks, crosswalks, parking lots, water mains, sanitary and storm sewers, drainage facilities, and landscaping.

13.20.360 Lake management plan

~~"Lake management plan" means a plan describing the lake management recommendations and requirements adopted by laws or regulations for managing water quality within individual lake basins.~~

Commented [A2]: DELETE – King County reference.

13.32.370 Land disturbing activity

"Land disturbing activity" means an activity that results in a change in the existing soil cover, both vegetative and nonvegetative, or to the existing soil topography. "Land disturbing activity" includes, but is not limited to, demolition, construction, clearing, grading, filling, excavation and compaction. "Land disturbing activity" does not include tilling conducted as part of agricultural practices, landscaping maintenance or gardening.

13.20.380 Land use code

~~"Land use code" means restrictions on the type of development for a specific parcel of land as identified by records maintained by the City as modified or supplemented by information resulting from investigation by the City. Land use codes are preliminary indicators of the extent of impervious surface and are used in the initial analysis to assign an appropriate rate category for a specific parcel.~~

Commented [A3]: DELETE – King County reference.

13.32.390 Landslide hazard drainage area

"Landslide hazard drainage area" means an area tributary to a landslide hazard area (KMC [18.20.1570](#)) where the City has determined that overland flows from new projects will pose a significant threat to health and safety because of their close proximity to the landslide hazard area. A delineation of known landslide hazard areas can be found in the Kenmore Critical Areas – Geologic Hazard Areas Map (KMC [18.55.130](#)).

13.20.400 Large project drainage review

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

1. Would, at full build-out of the project site, result in 50 acres or more of new impervious surface within a drainage sub-basin or a number of sub-basins hydraulically connected across sub-basin boundaries; or

2. Has a project site of 50 acres or more within a critical aquifer recharge area.

Commented [A4]: DELETE – King County reference.

13.32.410 Licensed civil engineer

"Licensed civil engineer" means a person registered with the State of Washington as a professional engineer in civil engineering.

13.32.420 LID

"LID" means low impact development.

13.32.430 LID best management practices (LID BMPs)

"LID best management practices" or "LID BMPs" means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs are referred to as flow control BMPs in the surface water design manual and include, but are not limited to, bioretention, permeable pavements, limited infiltration systems, roof downspout controls, dispersion, soil quality and depth, and minimal excavation foundations.

13.32.440 LID principles

"LID principles" means land use management strategies that emphasize conservation, on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss and stormwater runoff.

13.32.450 Low impact development

"Low impact development" or "LID" means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed

stormwater management practices that are integrated into a project design. Other common names for "LID" are "Green Stormwater Infrastructure" or "Natural Drainage Systems".

13.32.460 Maintenance

"Maintenance" means those usual activities taken to prevent a decline, lapse, or cessation in the use of currently serviceable structures, facilities, BMPs, equipment, or systems if there is no expansion of any of these, and there are no significant hydrologic impacts. Maintenance includes the repair or replacement of non-functional facilities and BMPs, and the replacement of existing structures with different types of structures, if the repair or replacement is required to meet current engineering standards or is required by one or more environmental permits and the functioning characteristics of the original facility or structure are not changed. For the purposes of applying this definition to the thresholds and requirements of Title 13 Division II KMC, the city manager will determine whether the functioning characteristics of the original facility, structure, or BMP will remain sufficiently unchanged to consider replacement as maintenance. Drainage review is not required for projects proposing only maintenance.

13.20.470 Master drainage plan

"Master drainage plan" means ~~the surface water master plan of the city, adopted by KMC 13.30.030a comprehensive drainage control plan intended to prevent significant adverse impacts to the natural and constructed drainage system, both on-site and off-site.~~

Commented [A5]: DELETE – King County reference.

13.32.480 MS4

"MS4" means the municipal separate storm sewer system.

13.32.490 Municipal separate storm sewer system

"Municipal separate storm sewer system" means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- (i) Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of Washington State;

- (ii) Designed or used for collecting or conveying stormwater;
- (iii) Which is not a combined sewer;
- (iv) Which is not part of a Publically Owned Treatment Works as defined at 40 CFR 122.2; and
- (v) Which is defined as "large" or "medium" or "small" or otherwise designated by the Washington State Department of Ecology pursuant to 40 CFR 122.26.

13.32.500 Native vegetated surface

"Native vegetated surface" means a surface in which the soil conditions, ground cover, and species of vegetation are like those of the original native condition for the site. More specifically, this means (1) the soil is either undisturbed or has been treated according to the "native vegetated landscape" specifications in SWDM Appendix C, Section C.2.1.8; (2) the ground is either naturally covered with vegetation litter or has been top-dressed between plants with 4 inches of mulch consistent with the native vegetated landscape specifications in SWDM Appendix C; and (3) the vegetation is either (a) comprised predominantly of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and that reasonably could have been expected to occur naturally on the site or (b) comprised of plant species specified for a native vegetated landscape in SWDM Appendix C. Examples of these plant species include trees such as douglas fir, western hemlock, western red cedar, alder, big-leaf maple and vine maple; shrubs such as willow, elderberry, salmonberry and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

13.32.510 National Pollutant Discharge Elimination System

"National Pollutant Discharge Elimination System" means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington State Department of Ecology.

13.32.520 Natural discharge location

"Natural discharge location" means the location where ~~surface and stormwater~~surface water and stormwater runoff leaves (or would leave if not infiltrated or retained) the site or project site under existing site conditions.

13.32.530 New impervious surface

“New impervious surface” means the addition of a hard or compacted surface such as roofs, pavement, gravel or dirt; or the addition of a more compacted surface, like paving over pre-existing dirt or gravel. Permeable pavement and vegetated roofs are considered new impervious surface for purposes of determining whether the thresholds for application of minimum requirements are exceeded in the SWDM, as are lawns, landscaping, sports fields, golf courses, and other areas that have modified runoff characteristics resulting from the addition of underdrains designed to collect stormwater runoff. Open, uncovered retention/detention facilities shall not be considered impervious surfaces for purposes of determining whether the thresholds for application of minimum requirements in the SWDM are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

13.32.540 New pervious surface

“New pervious surface” means the conversion of native vegetated surface or other native surface to a nonnative pervious surface (e.g., conversion of forest or meadow to pasture land, grass land, cultivated land, lawn, landscaping, bare soil, etc.) or any alteration of existing nonnative pervious surface that significantly increases ~~surface and stormwater~~surface water and stormwater runoff (e.g., conversion of pasture land, grass land, or cultivated land to lawn, landscaping or bare soil; or alteration of soil characteristics).

13.32.550 New pollution generating impervious surface (New PGIS)

“New PGIS” means new impervious surface that is pollution-generating impervious surface or any alteration of existing pollution-generating impervious surface that changes the type of pollutants or results in increased pollution loads and/or concentrations.

13.32.560 New pollution generating pervious surface (New PGPS)

“New PGPS” means new pervious surface that is pollution-generating pervious surface or any alteration of existing pollution-generating pervious surface that changes the type of pollutants or results in increased pollution loads and/or concentrations.

13.32.570 NPDES

“NPDES” means National Pollutant Discharge Elimination System.

13.32.580 Open space

“Open Space” means any parcel, property or portion thereof classified for current use taxation under Chapter [84.34](#) RCW, or for which the development rights have been sold to the City. This definition includes lands which have been classified as open space, agricultural or timber lands under criteria contained in Chapter [84.34](#) RCW.

13.32.590 Parcel

“Parcel” means the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for property tax purposes and given a tax lot number by the King County assessor.

13.32.600 Permeable pavement

“Permeable pavement” means pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir.

13.32.610 Permeable soils

“Permeable soils” means soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate ~~surface and stormwaters~~surface water and stormwater runoff.

13.32.620 Person

“Person” means an individual, and his or her agent or assign, municipality, political subdivision, government agency, partnership, corporation, business, or any other entity.

13.32.630 Pervious surface

“Pervious surface” means any surface material that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, and native vegetation areas. Note for purposes of threshold determination and runoff volume modeling for detention and treatment in the SWDM, vegetated roofs and permeable pavements are to be considered impervious surfaces along with lawns, landscaping, sports fields, golf courses, and other areas that have modified runoff characteristics resulting from the addition of underdrains.

13.32.640 Pollution generating impervious surface (PGIS)

“Pollution-generating impervious surface (PGIS)” means an impervious surface considered to be a significant source of pollutants in stormwater runoff. Such surfaces include those that are subject to:

vehicular use, industrial activities, or storage of erodible or leachable materials, wastes, or chemicals; and that receive direct rainfall or the run-on or blow-in of rainfall. A covered parking area would be included if runoff from uphill could regularly run through it or if rainfall could regularly blow in and wet the pavement surface. PGIS includes metal roofs unless they are coated with an inert, non-leachable material (see SWDM Reference 11-E). PGIS includes roofs that are exposed to the venting of significant amounts of dusts, mists, or fumes from manufacturing, commercial, or other indoor activities. PGIS includes vegetated roofs exposed to pesticides, fertilizers, or loss of soil. Other roofing types that may pose risk but are not currently regulated are listed in the SWDM Reference 11-E. Lawns, landscaping, sports fields, golf courses, and other areas that have modified runoff characteristics resulting from the addition of underdrains that have the pollution generating characteristics described under the “pollution-generating pervious surface” definition are also considered PGIS.

13.32.650 Pollution generating pervious surface (PGPS)

“Pollution-generating pervious surface (PGPS)” means a non-impervious surface considered to be a significant source of pollutants in ~~surface and stormwaters~~surface water and stormwater runoff. Such surfaces include those that are *subject to vehicular use, industrial activities, storage of erodible or leachable materials, wastes, or chemicals*, and that receive direct rainfall or the run-on or blow-in of rainfall; or subject to use of pesticides and fertilizers, or loss of soil. Such surfaces include, but are not limited to, the lawn and landscaped areas of a residential, commercial, or industrial site or land use, golf courses, parks, sports fields (natural and artificial turf), cemeteries, and County-standard grassed modular grid pavement.

13.32.660 Project

“Project” means any proposed action to alter or develop a site which may also require drainage review.

13.32.670 Project site

“Project site” means the portion of a site and any off-site areas subject to proposed project activities, alterations and improvements including those required by this code.

13.32.680 Rate Category

“Rate category” means the classification in Title 13 Division II KMC given to a parcel in the ~~service area~~City based upon the type of land use on the parcel and the percentage of impervious surface area contained on the parcel.

13.32.690 Redevelopment project

"Redevelopment project" means a project that proposes to add, replace or modify impervious surface for purposes other than a residential subdivision or maintenance on a site that:

1. Is already substantially developed in a manner that is consistent with its current zoning or with a legal nonconforming use; or
2. Has an existing impervious surface coverage of 35 percent or more.

13.32.700 Replaced impervious surface

"Replaced impervious surface" means any existing impervious surface on the project site that is proposed to be removed and re-established as impervious surface, excluding impervious surface removed for the sole purpose of installing utilities or performing maintenance on underground infrastructure. For structures, "removed" means the removal of buildings down to the foundation. For other impervious surfaces, "removed" means the removal down to base course or bare soil. It does not include the removal of pavement material through grinding or other surface modification unless the entire layer of PCC or AC is removed. Replaced impervious surface also includes impervious surface that is moved from one location to another on the project site where the following two conditions are met: (a) the area from which the impervious surface is moved from will be restored to the same or better runoff discharge characteristics as the area being covered by the moved impervious surface, and (b) impervious surface at the new location is either designated as non- pollution generating or the pollution generating characteristics remain unchanged compared to that of the original location.

13.32.710 Replaced pollution generating impervious surface (Replaced PGIS)

"Replaced PGIS" means replaced impervious surface that is pollution-generating impervious surface.

13.32.720 Residence

"Residence" means a building or structure or portion thereof, designed for and used to provide a place of abode for human beings. The term residence includes the term "residential" or "residential unit" as referring to the type of or intended use of a building or structure.

13.32.730 Residential parcel

"Residential parcel" means any parcel which contains no more than three residences or three residential units which are within a single structure and used primarily for residential purposes.

13.32.740 Runoff

“Runoff” means that portion of water originating from rainfall and other precipitation that flows over the surface or just below the surface from where it fell and is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands and shallow groundwater as well as on ground surfaces. For the purposes of this definition, “groundwater” means all waters that exist beneath the land surface or beneath the bed of any stream, lake, or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

~~13.20.750 Salmon conservation plan~~

~~“Salmon conservation plan” means a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance, capital projects, public education activities and enforcement programs for conservation and recovery of salmon within a water resource inventory area designated by the State under WAC 173-500-040.~~

Commented [A6]: DELETE – King County reference.

~~13.20.760 Service area~~

~~“Service area” means the City of Kenmore.~~

Commented [A7]: DELETE – King County reference.

13.32.770 Shared facility

“Shared facility” means a drainage facility designed to meet one or more of the requirements of KMC [13.35.050](#) for two or more separate projects contained within a basin. Shared facilities usually include shared financial commitments for those drainage facilities.

13.32.780 Simplified drainage review

“Simplified drainage review” means the drainage review for a proposed single family residential project or agricultural project that: results in less than 5,000 square feet of new plus replaced pollution generating impervious surface, results in less than ¼ acre of pollution generating pervious surface, limits target impervious and pervious surface as specified in SWDM Section 1.1.2.1 , and meets the simplified drainage requirements specified in SWDM Appendix C , including flow control best management practices, erosion and sediment control measures, and drainage plan submittal requirements.

13.32.790 Site

“Site” means a single parcel, or two or more contiguous parcels that are under common ownership or documented legal control, used as a single parcel for a proposed project for the purposes of applying this code to a proposed project. For projects located primarily within dedicated rights-of-way, “site” includes the entire width of right-of-way subject to improvements proposed by the project.

13.32.800 Stormwater

“Stormwater” means the water produced during precipitation or snowmelt, which runs off, soaks into the ground, or is dissipated through evapotranspiration. Stormwater that runs off or soaks into the ground ultimately becomes surface water or groundwater.

~~13.20.810 Stormwater compliance plan~~

~~“Stormwater compliance plan” means a plan or study and all regulations and procedures that have been adopted by the City to implement the plan or study, including, but not limited to, capital projects, public education activities and enforcement programs for managing stormwater quantity and quality discharges from the City’s municipal separate storm sewer system storm sewer system in compliance with the National Pollutant Discharge Elimination System permit program under the Clean Water Act.~~

Commented [A8]: DELETE – King County reference.

13.32.820 Stormwater pollution prevention manual

“Stormwater Pollution Prevention Manual” means the manual (and supporting documentation referenced or incorporated in the manual) describing best management practices and procedures for existing facilities and existing and new activities not covered by the Surface Water Design Manual.

13.32.830 Sub-basin

“Sub-basin” means a geographic area that:

1. Drains to a stream or water body named and noted on common maps; and
2. Is contained within a basin of the stream or water body.

13.32.840 Surface water

“Surface water” means the water that exists on land surfaces before, during, and after stormwater runoff occurs and includes, but is not limited to, the water found on ground surfaces and in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands, and Puget Sound. It also includes shallow groundwater.

13.32.850 Surface Water Design Manual (SWDM)

“Surface Water Design Manual” means the King County Surface Water Design Manual, dated April 24, 2016, and supporting documentation referenced or incorporated in the Manual, describing ~~surface and stormwater~~ surface water and stormwater design and analysis requirements, procedures and guidance

adopted pursuant to KMC 13.35.025. A link to obtain an electronic version of the Surface Water Design Manual is available on King County's webpage.

13.32.860 Surface water and stormwater management

"Surface water and stormwater management" means the services provided by the surface water management program, including but not limited to planning, maintenance and operations, regulation, financial administration, public involvement, outreach and education, drainage investigation and enforcement, aquatic resource restoration, ~~surface and stormwater~~surface water and stormwater quality and environmental monitoring, intergovernmental relations and facility design and construction.

13.32.870 Stormwater management program

"Stormwater Management Program" means the set of actions and activities designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable and to protect water quality, and comprising the components listed in the City's Western Washington Phase II Municipal Stormwater Permit.

13.32.880 Stormwater management program plan

"Stormwater Management Program Plan" means the documentation submitted to the Washington State Department of Ecology describing the status of implementation of the requirements of the City's Western Washington Phase II Municipal Stormwater Permit.

13.32.890 Surface Water Master Plan

"Surface Water Master Plan" means the 2015 City of Kenmore Surface Water Master Plan, which was an update to the 2001 and 2008 City of Kenmore Surface Water Management Plans.

13.20.900 Targeted drainage review

~~"Targeted drainage review" means an abbreviated evaluation required by KMC 13.35.040 for certain types of proposed projects which are not subject to full or large project drainage review. Targeted drainage review may be required for some projects in simplified drainage review.~~

Commented [A9]: DELETE – King County reference.

13.32.910 Undeveloped parcel

"Undeveloped parcel" means any parcel which has not been altered from its native state by the construction, creation or addition of impervious or pervious surfaces, including the alteration of soil conditions, ground cover, and species of vegetation (such as landscaping).

13.32.920 Waters of the state

“Waters of the State” means those waters as defined as “waters of the United States” in 40 CFR within the boundaries of Washington State and “waters of the state” as defined in chapter 90.48 RCW.

13.32.930 Water quality treatment facility

“Water quality treatment facility” means a drainage facility designed to reduce pollutants once they are already contained in ~~surface and stormwater~~surface water and stormwater runoff. A water quality treatment facility is the structural component of best management practices (BMPs). When used singly or in combination, a water quality treatment facility reduces the potential for contamination of both surface and groundwaters. [Ord. 11-0329 § 10; Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.020).]

13.32.940 Western Washington Phase II Municipal Stormwater Permit

“Western Washington Phase II Municipal Stormwater Permit” means the National Pollutant Discharge Elimination System and State Waste Discharge General Permit for discharges from Small Municipal Separate Storm Sewers in Western Washington issued to the City by the Washington State Department of Ecology.

DRAFT ORDINANCE 16-0428

ATTACHMENT D – ADOPTION OF NEW CHAPTER 13.35

CHAPTER 13.35 SURFACE WATER RUNOFF POLICY

Sections:

- 13.35.010 Scope.
- 13.35.020 Purposes.
- 13.35.025 King County Surface Water Design Manual adopted.
- 13.35.040 Drainage review.
- 13.35.050 Drainage review – Requirements.
- 13.35.060 Critical drainage and/or erosion areas.
- 13.35.070 Engineering plans for the purposes of drainage review.
- 13.35.080 Construction timing and final approval.
- 13.35.090 Liability insurance required.
- 13.35.100 Financial guarantees authorized.
- 13.35.110 Drainage facilities accepted by the City for operation and maintenance.
- 13.35.120 Drainage facilities not accepted by the for operation and maintenance.
- 13.35.130 Hazards.
- 13.35.140 Administration.
- 13.35.150 Enforcement.
- 13.35.160 Liberal construction.
- 13.35.180 Penalty.

13.35.010 Scope.

Compliance with the standards in this chapter and the Surface Water Design Manual does not necessarily mitigate all probable and significant environmental impacts to aquatic biota. Fishery resources and other living components of aquatic systems are affected by a complex set of factors. While employing a specific flow control standard may prevent stream channel erosion or instability, other factors affecting fish and other biotic resources (such as increases in stream flow velocities) are not directly addressed by the Surface Water Design Manual. Thus, compliance with this Manual should not be construed as mitigating all probable and significant stormwater impacts, and additional mitigation may be required to protect aquatic biota in streams and wetlands. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.005).]

13.35.020 Purposes.

The city council finds that this chapter is necessary in order to promote the public health, safety and welfare by providing for the comprehensive management of ~~surface and stormwaters~~surface water and stormwaters and erosion control, especially that which preserves and utilizes the many values of the

City's natural drainage system including open space, fish and wildlife habitat, recreation, education and urban separation. The city council also finds that the City shall conduct programs to reduce flooding, erosion, and sedimentation, prevent and mitigate habitat loss, enhance groundwater recharge, and prevent water quality degradation through the implementation of comprehensive and thorough permit review, construction inspection, enforcement, and maintenance in order to promote the effectiveness of the requirements contained in this chapter. The city council also finds that elements of this chapter fulfill certain requirements of the Western Washington Phase II Municipal Stormwater Permit, issued to the City by the Washington State Department of Ecology, pursuant to the federal Water Pollution Control Act ([33 U.S.C. Section 1251](#)) and the State law governing water pollution control (Chapter [90.48](#) RCW). [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.010).]

13.35.025 King County Surface Water Design Manual adopted.

A. The King County Surface Water Design Manual, dated April 24, 2016, as modified by KMC 13.35.025.B, is hereby adopted for use in the City. The adoption of the Surface Water Design Manual, or "SWDM," includes the adoption of the Grading Code Soil Amendment Standard (Reference No. 4A to the SWDM) and Wetland Hydrology Protection Guidelines (Reference No. 5 to the SWDM). Revisions of the SWDM by King County shall be applicable in the City only if adopted by the city council.

B. The following sections of the Surface Water Design Manual are amended to read or provide as follows:

1. Section 1.1.1(1) – Projects Requiring Drainage Review. Drainage review is required for any proposed project (except those proposing only maintenance) that is subject to a City development permit or approval, including, but not limited to, those listed at right (or their City equivalent) and that meets any one of the following conditions:

(1) The project adds or will result in either: 500 square feet or more of new impervious surface; or 2,000 square feet or more of replaced impervious surface or new plus replaced impervious surface.

Note: Subsections 2 through 6 of Section 1.1.1 are not amended or repealed.

2. Section 1.1.2.1 - Simplified Drainage Review. The following threshold and allowance shall not apply within the City of Kenmore:

a. The "Threshold" text of KCSWDM 1.1.2.1 is revised so that the minimum threshold for projects eligible for simplified drainage review shall be 500 square feet of new impervious surface; or

b. 2,000 square feet or more of replaced impervious surface, or new plus replaced impervious surface; or

c. 7,000 square feet or more of land disturbing activity; and

d. The allowance for simplified drainage review for projects in the rural residential, agricultural and forestry zones that result in no more than four percent total impervious surface and no more than 15 percent pervious surface is void and shall not apply within the City of Kenmore.

The remaining text and threshold requirements of KCSWDM 1.1.2.1, Small Project Drainage Review, shall apply within the City of Kenmore.

3. Flow Control Applications Map. The King County Flow Control Applications Map included with the SWDM shall not be applied in the City. All of the City is a conservation flow control area (level two) except that:

a. The Swamp Creek Basin is a flood problem flow control area (level three); and

b. Project sites with identified downstream flooding problems that ~~may be assigned~~ require a higher level of flow control for impact mitigation.

4. Water Quality Applications Map. The King County Water Quality Applications Map included with the SWDM shall not be applied in the City. All of the City is a basic water quality treatment area unless the land use for the project triggers enhanced basic water quality treatment.

5. Landslide Hazards Drainage Areas Map. The King County Landslide Hazard Drainage Areas Map included with the SWDM shall not be applied in the City. Landslide hazard drainage areas in the City are defined in KMC [13.35.030](#)(Y).

6. Section 1.4.4 – Adjustment Review Process. All adjustments are classified as Type 1 land use decisions in Kenmore Municipal code. Requests for an adjustment are a Type 1 land use decision as provided in KMC 19.25.020 and shall be processed in accordance with procedures for a Type 1 land use decision set forth in KMC 19.25.020.

~~6. Section 1.2.3.2 – Flow Control Requirements; KCSWDM 1.2.8.2 – Water Quality Implementation Requirements. A section entitled “Landscaping and Aesthetics Requirements” shall be added to Section 1.2.3.2 Flow Control Facility Implementation Requirements and to Section 1.2.8.2 Water Quality Implementation Requirements to read as follows:~~

Commented [RS10]: DELETE – Confirmed with Development Review Engineer that this is no longer needed in this section.

Landscaping and Aesthetics Requirements:

1. All exposed flow control and water quality facilities shall be designed and constructed with landscaping and other features to address aesthetics. Ponds and swales shall be designed to appear as naturally occurring features, with free-form shapes and side slopes no steeper than 3H:1V. Wetponds and combined wetpond/detention ponds shall have a five-foot wide planted "bench" at or one foot below the permanent water surface. A landscape plan must be submitted for the facility during engineering design review that adheres to the landscaping criteria listed in Section 5.3.1.1. Minor deviations from specific design criteria in the SWDM may be allowed to facilitate implementing this requirement, when it can be demonstrated that such a deviation will not reduce the intended function of the facility.

2. Fencing is optional. Fencing may be constructed of wood or chain link material; however maintenance of wood fences shall be the responsibility of the property owner or homeowners association. Chain link fencing must be green or black vinyl coated. If fencing is proposed, the landscape plan must include a 10-foot buffer of Type I landscaping on the outside of the fenced area, as defined by KMC 18.35.040(A), together with climbing evergreen shrubs or vines capable of growing on the fence. Alternatives to Type I landscaping within the 10-foot buffer may be approved for low fences that do not create significant view blockage.

C. The city manager is authorized to interpret the Surface Water Design Manual, as amended, adopt interpretive guidelines, promulgate rules, and resolve conflicts or inconsistencies. [Ord. 11-0329 § 9; Ord. 10-0305 § 2; Ord. 02-0132 §§ 3, 4, 5.]

13.35.040 Drainage review.

A. A drainage review is required when any proposed project is subject to a City development permit or approval and:

1. Would result in:

a. 500 square feet or more of new impervious surface; or

b. 2,000 square feet or more of replaced impervious or new plus replaced impervious surface;
or

2. Would involve 7,000 square feet or more of land disturbing activity; or

Commented [RS11]: DELETE – This is repeated from SWDM and does not need to be in KMC

~~3. Would construct or modify a drainage pipe or ditch that is 12 inches or more in size or depth or receives surface and stormwater runoff from a drainage pipe or ditch that is 12 inches or more in size or depth; or~~

~~4. Contains or is adjacent to a flood hazard area as defined in KMC 18.55.700; or~~

~~5. Is located within a critical drainage area; or~~

~~6. Is a redevelopment project proposing \$100,000 or more of improvements to an existing high-use site.~~

~~B. The drainage review for any proposed project shall be scaled to the scope of the project's size, type of development and potential for impacts to the regional surface water system to facilitate preparation and review of project applications. If drainage review for a proposed project is required by subsection A of this section, the city manager shall determine which of the following drainage reviews apply as specified in the Surface Water Design Manual:~~

~~1. Simplified drainage review;~~

~~2. Targeted drainage review;~~

~~3. Directed drainage review;~~

~~3. Full drainage review; or~~

~~4. Large project drainage review. [Ord. 10-0305 § 2; Ord. 02-0132 §§ 1, 2; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.030).]~~

~~**13.35.050 Drainage review – Requirements.**~~

~~A. A proposed project that is required to have drainage review pursuant to KMC 13.35.040 must meet each of the applicable core requirements, which are described in detail in the Surface Water Design Manual.~~

~~B. A proposed project required by KMC 13.35.040 to have drainage review shall meet the Special Requirements of the Surface Water Design Manual. The city manager shall verify whether a proposed project is subject to and meets any of the special requirements.~~

~~C. Adjustment.~~

Commented [RS12]: DELETE – This is repeated from SWDM and does not need to be in KMC

Commented [RS13]: DELETE – This is repeated from SWDM and does not need to be in KMC

~~1. An adjustment to the requirements contained in this section and/or other requirements in the Surface Water Design Manual may be proposed. The resulting development shall be subject to all of the remaining terms and conditions of this chapter and the adjustment shall:~~

~~a. Produce a compensating or comparable result in the public interest; and~~

~~b. Meet this chapter's objectives of safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment.~~

~~2. If complying with subsection (C)(1)(a) of this section will deny reasonable use of a property, the best practicable alternative shall be obtained as determined by the city manager according to the adjustment process defined in the Surface Water Design Manual.~~

~~3. Requests for adjustments which may be in conflict with the requirements of any other section of Title 13 Division II shall require review and concurrence with that section.~~

~~4. Requests for an adjustment are a Type 1 land use decision as provided in KMC 19.25.020 and shall be processed in accordance with procedures for a Type 1 land use decision set forth in KMC 19.25.020.~~

~~5. The City may require monitoring of experimental designs and technology or untested applications proposed by the applicant in order to determine compliance with subsection (C)(1) of this section and the approved plans and conditions.~~

~~6. Although adjustment decisions, classified as Type 1 land use decisions, are not allowed an administrative appeal per KMC 19.25.020, the applicant may request reconsideration of the denial or conditions of approval of an adjustment request in the manner specified in Section 1.4.5 of the Surface Water Design Manual. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.050).]~~

13.35.060 Critical drainage and/or erosion areas.

Development in areas where the city manager has determined that the existing flooding, drainage and/or erosion conditions present an imminent likelihood of harm to the welfare and safety of the surrounding community shall meet special drainage requirements set by the city manager until such time as the community hazard is alleviated. Such conditions may include the limitation of the volume of discharge from the subject property to predevelopment levels, preservation of wetlands or other natural drainage features or other controls necessary to protect against community hazard. Where alternate facility designs or methods will produce a compensating or comparable result in the public interest and which will

meet this section's objectives of safety, function, appearance, environmental protection and maintainability, based upon sound engineering judgment, an adjustment to the special drainage requirements promulgated under this section may be proposed; provided, that the resulting development shall be subject to all of the remaining terms and conditions of this chapter. Where application of this section will deny all reasonable use of a property and a facility or design that produces a compensating or comparable result cannot be obtained, then a best practicable alternative may be obtained, to be determined by the city manager according to the adjustment process defined in the Surface Water Design Manual. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.060).]

13.35.070 Drainage review process.

~~A. All engineering plans shall be submitted to the city manager for review in accordance with the Surface Water Design Manual except those drainage plans developed by, or under the review of, the city manager for either surface and stormwater capital improvement, repair, maintenance or restoration projects or other government agency projects that are linear in shape, such as street-ways, railways, pipelines, utility lines and trails.~~

~~1. If engineering plans are returned for any reason, they shall be submitted to the applicant.~~

~~2. All master drainage plans, if required, shall be submitted to the city manager for review in accordance with the specifications in the Surface Water Design Manual. The master drainage plan process should commence at the same time as the State Environmental Policy Act (SEPA) process.~~

~~3. All drainage plans not subject to review by the city manager pursuant to subsection (A) of this section shall be reviewed by the city manager in accordance with KMC 13.35.050. Project applicability and compliance with KMC 13.35.050 shall be documented in writing and available for review.~~

~~B. The expiration time frames as specified in the Surface Water Design Manual shall apply to all permit and approval applications.~~

~~C. All plans shall be processed in accordance with the review procedures specified in the Surface Water Design Manual.~~

~~D. All submittal procedures, definitions and specifications for the required contents of engineering plans are presented in the Surface Water Design Manual. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.070).]~~

Commented [RS14]: DELETE – Covered in SWDM

13.35.080 Construction timing and final approval.

A. No work related to permanent or temporary storm drainage control for a permitted development may proceed without the approval of the city manager.

B. Erosion and sediment control measures associated with both the interim and permanent drainage systems shall be:

1. Constructed in accordance with the approved plan prior to any grading or land clearing other than that associated with an approved erosion and sediment control plan; and
2. Satisfactorily sequenced and maintained until all improvements, restoration, and landscaping associated with the permit and approvals for the project are completed and the potential for on-site erosion has passed.

C. The applicant shall have constructed and have in operation those portions of the drainage facilities necessary to accommodate the control of ~~surface and stormwater~~surface water and stormwater runoff discharging from the site before the construction of any other improvements or buildings on the site, or to final recording of a plat or short plat, unless upon written request of the applicant, the city manager authorizes recording before construction of facilities in order to minimize impacts that may result from construction of facilities during inappropriate times of the year. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.090).]

13.35.090 Liability insurance required.

The applicant required to construct the drainage facility pursuant to this chapter shall maintain a combined single limit per occurrence liability policy in the amount established y by the City risk management program, which shall name the City as an additional insured and protect the City from liability relating to the construction or maintenance of the facility until construction approval or acceptance for maintenance, whichever is last. Proof of this required liability policy shall be provided to the city manager prior to commencing construction of any drainage facility. If this liability insurance is not kept in effect as required, the City may initiate enforcement action pursuant to Chapter [1.20](#) KMC. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.100).]

13.35.100 Financial guarantees authorized.

The city manager is authorized to require all applicants who are issued permits or approvals under the provisions of Title 13 Division II to post financial guarantees consistent with the provisions of KMC Title [21](#). [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.105).]

~~**13.35.140 Drainage facilities accepted by the City for operation and maintenance.**~~

Commented [RS15]: DELETE – This is repeated from SWDM and does not need to be in KMC

~~A. Unless the City agrees to maintain and operate a drainage facility in accordance with this section, a drainage facility shall be a private facility, and the person or persons holding title to the property and the applicant required to construct a drainage facility shall be responsible for operation and maintenance of the drainage facility.~~

~~The City of Kenmore is responsible for the maintenance, including performance and operation, of drainage facilities which have formally been accepted for maintenance by the city manager.~~

~~B. The City of Kenmore may assume ownership, maintenance and/or operation of privately maintained drainage facilities only if the following conditions have been met:~~

~~1. If the drainage facility is not located within a the right-of-way and, then the following apply;~~

~~a. All necessary easements or dedications entitling the City to properly operate and maintain the drainage facility have been conveyed to the City;~~

~~b. The facility is located on residential property or properties;~~

~~c. The facility is required for reasons beyond the control of the residential property owner;~~

~~d. The facility does not contain waters of the State;~~

~~e. The facility is not required primarily as a result of impacts associated with ground water;~~

~~f. The facility is not required primarily as a result of runoff from neighboring private properties;~~

~~and~~

~~g. Before assuming maintenance of privately maintained drainage facilities, the City will consider;~~

~~——(1) The cost of assuming maintenance and operations~~

~~——(2) The public benefit of assuming maintenance and operations; or~~

~~2. The city manager has determined that the facility is located within the dedicated public road a right-of-way; or~~

~~3. or that Operation and maintenance of the facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:~~

~~a. Flooding;~~

- ~~b. Downstream erosion;~~
- ~~c. Property damage due to improper function of the facility;~~
- ~~d. Safety hazard associated with the facility;~~
- ~~e. Degradation of water quality or in-stream resources; or~~
- ~~f. Degradation to the general welfare of the community; and~~

~~3. On behalf of the City, the city manager has declared in writing acceptance of accepted operation and maintenance responsibility of the facility by the City. Copies of this document will shall be kept on file with the city manager.~~

~~C. The city manager may terminate the City responsibility for assumption of operation and maintenance responsibility of a drainage facility responsibilities in writing after determining in writing that continued operation and maintenance will not significantly contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:~~

- ~~1. Flooding;~~
- ~~2. Downstream erosion;~~
- ~~3. Property damage due to improper function of the facility;~~
- ~~4. Safety hazard associated with the facility;~~
- ~~5. Degradation of water quality or in-stream resources; or~~
- ~~6. Degradation to the general welfare of the community.~~

~~Copies of such written determination and modification of the original acceptance this document will shall be kept on file with the city manager.~~

~~D. A drainage facility which does not meet the criteria of this section shall remain the responsibility of the applicant required to construct the facility and persons holding title to the property for which the facility was required. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.115).]~~

~~13.35.120 Drainage facilities not accepted by the City of Kenmore for operation and maintenance.~~

Commented [RS16]: DELETE – This is repeated from SWDM and does not need to be in KMC

~~A. In addition to the responsibility of (The person or persons holding title to the property and the applicant required to construct a drainage facility and to beshall remain responsible for the facility's continual performance, operation and maintenance, as set forth in KMC 13.35.110, such person or persons and such applicant shall be responsible for operation and maintenance of drainage facilities that are in accordance with the standards and requirements of the city manager and remain responsible for any liability as a result of these duties. This responsibility includes maintenance of a drainage facility which is:~~

- ~~1. Under a maintenance guarantee or defect guarantee;~~
- ~~2. A private road conveyance system;~~
- ~~3. Released from all required financial guarantees prior to July 7, 1980;~~
- ~~4. Located within and serving only one single-family residential lot;~~
- ~~5. Located within and serving a multifamily or commercial site unless the facility is part of an approved shared facility plan;~~
- ~~6. Located within or associated with an administrative or formal subdivision which handles runoff from an area of which less than two-thirds is designated for detached or townhouse dwelling units located on individual lots unless the facility is part of an approved shared facility plan;~~
- ~~7. Previously terminated for assumption of operation and maintenance responsibilities by the city manager in accordance with KMC13.35.110;~~
- ~~8. Not otherwise accepted by the City for operation and maintenance; or~~
- ~~9. Located within a private easement or any easement otherwise not specifically dedicated to the City for the purposes of maintenance and operations.~~

~~B. Prior to the issuance of any of the permits and/or for any multifamily or commercial project required to have a flow control or water quality treatment facility, the applicant shall record a declaration of covenant as specified in the Surface Water Design Manual. The restrictions set forth in such covenant shall include, but not be limited to, provisions for notice to the persons holding title to the property of a City determination that maintenance and/or repairs are necessary to the facility and a reasonable time limit in which such work is to be completed.~~

- ~~1. In the event that the titleholders do not effect such maintenance and/or repairs, the City may perform such work upon due notice. The titleholders are required to reimburse the City for any such~~

~~work. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the City.~~

~~2. The City may enforce the restrictions set forth in the declaration of covenant provided in the Surface Water Design Manual.~~

~~C. Prior to the issuance of any of the permits and/or approvals for the project or the release of financial guarantees posted to guarantee satisfactory completion, the person or persons holding title to the subject property for which a drainage facility was required shall pay a fee established by the city manager to reasonably compensate the City for costs relating to inspection of the facility to ensure that it has been constructed according to plan and applicable specifications and standards.~~

~~D. The duties specified in this section with regard to payment of inspection fees and reimbursement of maintenance costs shall be enforced against the person or persons holding title to the property for which the drainage facility was required.~~

~~E. Where not specifically defined in this section, the responsibility for performance, operation and maintenance of drainage facilities and conveyance systems, both natural and constructed, shall be determined on a case-by-case basis. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.120).]~~

13.35.130 Hazards.

A. Whenever the city manager determines that any existing construction site, erosion and sedimentation problem and/or drainage facility poses a hazard to life and limb, endangers any property, and/or adversely affects the condition or capacity of other drainage facilities, the safety and operation of City right-of-way, utilities, and/or other property owned or maintained by the City, the applicant/person to whom the permit was issued pursuant to KMC [13.35.040](#), the owner of the property within which the drainage facility is located, the applicant/person responsible for operation and maintenance of the facility, and/or other person or agent in control of said property, upon receipt of notice in writing from the city manager shall, within the period specified therein, repair or otherwise address the cause of the hazardous situation in conformance with the requirements of this chapter.

B. Should the city manager have reasonable cause to believe that the situation is so hazardous as to preclude written notice, the city manager may take the measures necessary to eliminate the hazardous situation; provided, that the city manager shall first make a reasonable effort to locate the owner before acting. In such instances the applicant of whom a drainage plan was required pursuant to KMC [13.35.040](#), the owner of the property and/or the person responsible for the maintenance of the facility shall be obligated for the payment of all costs incurred. If costs are incurred and a financial

guarantee pursuant to this chapter or other City requirement has been posted, the city manager shall have the authority to collect against the financial guarantee to cover costs incurred. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.130).]

13.35.140 Administration.

A. The city manager is authorized to promulgate and adopt administrative rules for the purpose of implementing and enforcing the provisions of this chapter. The administrative rules shall be on file with the city manager.

B. The city manager is authorized to develop procedures for applying adopted rules and regulations during the review of permit applications for the development of land. These procedures may also be contained in the Surface Water Design Manual.

C. The city manager is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

D. Whenever necessary to enforce any of the provisions of this chapter or to monitor for proper function of drainage facilities, or whenever the city manager has reasonable cause to believe that violations of this chapter are present or operating on a subject property or portion thereof, the city manager may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon the city manager by this chapter; provided, that if such premises or portion thereof is occupied, the city manager shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and demand entry.

E. Proper ingress and egress shall be provided to the city manager to inspect, monitor or perform any duty imposed upon the city manager by this chapter. The city manager shall notify the responsible party in writing of failure to comply with this access requirement. Failing to obtain a response within seven days from the receipt of notification, the city manager may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all costs that may be incurred or expended by the City in causing such work to be done shall thereby be imposed on the person holding title to the subject property. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.140).]

13.35.150 Enforcement.

The city manager is authorized to enforce the provisions of this chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of Chapters [1.15](#) and [1.20](#) KMC. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.180).]

13.35.160 Liberal construction.

This chapter is exempted from the rule of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. [Ord. 10-0305 § 2; Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.192).]

13.35.180 Penalty.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to the civil and criminal penalties set forth in Chapter [1.15](#) KMC. [Ord. 10-0305 § 2; Ord. 01-0124 § 1; Ord. 98-0016 § 5.]

DRAFT ORDINANCE 16-0428

ATTACHMENT E – ADOPTION OF NEW CHAPTER 13.40

CHAPTER 13.40
SURFACE WATER MANAGEMENT PROGRAM

Sections:

- 13.40.020 Authority.
- 13.40.030 Purpose.
- 13.40.040 Applicability.
- 13.40.050 Policy.
- 13.40.060 Rate structure.
- 13.40.070 Rate adjustments and appeals.
- 13.40.080 Petition for additional services.
- 13.40.090 Billing procedure.
- 13.40.100 Delinquencies and foreclosures.
- 13.40.110 Administrative procedures.
- 13.40.120 Report of revenue and expenditure analysis.
- 13.40.130 Penalty.

13.40.020 Authority.

- A. There is hereby created and established the surface water management program of the City under which the provisions of this chapter shall be carried out.
- B. The program created in this section shall be administered by the City.
- C. Whenever necessary to examine the property characteristics of a particular parcel for the purposes of implementing this chapter, the city manager may enter any property or portion thereof at reasonable times in compliance with the following procedures:
 - 1. If the property or portion thereof is occupied, the city manager shall present identification credentials, state the reason for entry and request entry;
 - 2. If the property or portion thereof is unoccupied, the city manager shall first make a reasonable effort to locate the owner or other persons having charge or control of the property or portion thereof and request entry; and
 - 3. Unless entry is consented to by the owner or person in control of any property or portion thereof, the city manager, before entry, shall obtain a search warrant as authorized by the laws of the State of Washington.

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

E. The program may provide services related to ~~surface and stormwater~~[surface water and stormwater](#) management, including but not limited to basin planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and stormwater quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations, and facility design and construction. The program may contract for services with interested municipalities or special districts including but not limited to sewer and water districts, school districts, port districts or other governmental agencies.

13.40.030 Purpose.

It is the finding of the City that the surface water management program is necessary in order to promote public health, safety and welfare by establishing and operating a comprehensive approach to ~~surface and stormwater~~[surface water and stormwater](#) problems which would reduce flooding, erosion and sedimentation, prevent and mitigate habitat loss, enhance groundwater recharge and prevent water quality degradation. This comprehensive approach includes the following elements: basin planning, land use regulation, construction of facilities, maintenance, public education, and provision of ~~surface and stormwater~~[surface water and stormwater](#) management services. It is the finding of the City that the most cost effective and beneficial approach to ~~surface and stormwater~~[surface water and stormwater](#) management is through preventative actions and protection of the natural drainage system. In approaching ~~surface and stormwater~~[surface water and stormwater](#) problems the surface water management program shall give priority to methods which provide protection or enhancement of the natural surface water drainage system over means which primarily involve construction of new drainage facilities or systems. The purpose of the rates and charges established herein is to provide a method for payment of all or any part of the cost and expense of ~~surface and stormwater~~[surface water and stormwater](#) management services or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such services. These rates and charges are necessary in order to promote the public health, safety and welfare by minimizing uncontrolled ~~surface and stormwater~~[surface water and stormwater](#), erosion, and water pollution, to preserve and utilize the many values of the City's natural drainage system including water quality, open space, fish and wildlife habitat, recreation, education, urban separation and drainage facilities, and to provide for the comprehensive management and administration of ~~surface and stormwater~~[surface water and stormwater](#). [Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.08.040).]

13.40.040 Applicability.

A. Developed parcels within the City shall be billed each year for ~~surface and stormwater~~surface water and stormwater management services pursuant to RCW [36.89.080](#).

~~B. The service area may be modified in accordance with policy contained in KMC 13.40.050. Modifications to the service area shall be by ordinance. [Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.08.050).]~~

Commented [RS17]: DELETE – Service Area is a County designation

13.40.050 Policy.

A. It is the finding of the City that basins ~~in the service area~~ are shared with other municipalities and cities. In order to achieve a comprehensive approach to ~~surface and stormwater~~surface water and stormwater management, the City and municipalities within a specific basin should coordinate ~~surface and stormwater~~surface water and stormwater management services. In addition, the program may contract for services with interested municipalities.

B. It is the finding of the City that many of the difficulties found in the management of ~~surface and stormwater~~surface water and stormwater problems are contributed to by the general lack of public knowledge about the relationship between human actions and ~~surface and stormwater~~surface water and stormwater management. In order to achieve a comprehensive approach to ~~surface and stormwater~~surface water and stormwater management, the City should provide general information to the public about land use and human activities which impact ~~surface and stormwater~~surface water and stormwater management.

C. It is the finding of the City that developed parcels contribute to an increase in surface water and stormwater runoff ~~to the surface and stormwater management system~~. This increase in surface water and stormwater runoff results in the need to establish rates and charges to finance the City's activities in surface water and stormwater management. Developed parcels shall be subject to the rates and charges of the surface water management program based on their ~~contribution to increased runoff. The factors to be used to determine the degree of increased surface and stormwater~~surface water and stormwater runoff to the surface and stormwater management system from a particular parcel shall be the percentage of impervious surface coverage on the parcel and the total acreage of the parcel.

D. It is the finding of the City that undeveloped parcels do not contribute as much as developed parcels to an increase in ~~surface and stormwater~~surface water and stormwater runoff into the ~~surface and stormwater~~surface water and stormwater management system. Undeveloped properties shall be exempt from the rates and charges of the surface water management program.

E. It is the finding of the City that maintained drainage facilities mitigate the increased runoff contribution of developed parcels by providing on-site drainage control. Parcels served by retention/detention facilities

which were required for development of the parcel pursuant to Chapter [13.35](#) KMC and approved by the City or can be demonstrated as required in KMC [13.40.070](#) by the property owner to provide detention/retention of ~~surface and stormwaters~~surface water and stormwater to the standards in Chapter [13.35](#) KMC shall receive a discount as provided in the rates and charges of the surface water management program, if the facility is maintained at the parcel owner's expense to the standard established by the department.

F. It is a finding of the City that open space properties provide a benefit to the ~~surface and stormwaters~~surface water and stormwater management system by the retention of property in an undeveloped state. Open space properties shall receive a discount from the rates and charges to encourage the retention of property as open space.

G. It is a finding of the City that the majority of ~~the parcels in the service area~~ are residential. ~~The variance between residential parcels in impervious surface coverage is found to be minor and to reflect only minor differences in increased runoff contributions.~~The administrative cost of calculating the service charge individually for each residential parcel and maintaining accurate information would be very high. A flat charge for residential parcels is less costly to administer than calculating a separate charge for each parcel ~~and is equitable because of the similarities in impervious surface coverage between residential parcels~~. Therefore, residential parcels shall be charged a flat charge based upon an average amount of impervious surface allowed per maximum impervious percentages set forth in chapter 18.21 KMC.

~~H. It is a finding of the City that very lightly developed nonresidential parcels which have an impervious surface coverage of 10 percent or less of the total parcel acreage are characterized by a very low intensity of development and generally a large number of acres. A greater number of acres of undeveloped land associated with an impervious surface results in significantly less impact to the surface and stormwater management system. Many of the very lightly developed properties are recreational, agricultural and timber lands identified in the City comprehensive plan and should be encouraged to retain their low intensity of development. These parcels shall be charged a flat rate which will encourage the retention of large areas of very lightly developed land.~~

~~I. It is the finding of the City that lightly to very heavily developed nonresidential parcels which have an impervious surface coverage of more than 10 percent have a substantial impact on the surface and stormwater management system. The impact of these parcels on the surface and stormwater management system increases with the size of the parcels. Therefore, lightly to very heavily developed properties shall be charged a rate determined by the percent of impervious surface coverage multiplied by the parcel acreage.~~

J. ~~It is a finding of the City that City and State streets contribute a significant amount of increased runoff to the surface and stormwater management system, which contributes to the need for basin planning, drainage facilities and other related services.~~ However, both the City streets and State highway programs provide substantial annual programs for the construction and maintenance of drainage facilities, and the streets systems and their associated drainage facilities serve as an integral part of the surface water and stormwater management system. City and State streets will not be charged a service fee.

K. It is the finding of the City that comprehensive management of ~~surface and stormwater~~surface water and stormwater runoff must include anticipation of future growth and development in the design and improvement of the surface water and stormwater management system. Service charge revenue needs shall be based upon the present and future requirements of the ~~surface and stormwater~~surface water and stormwater management system, and these needs shall be considered when determining the rates and charges of the program.

L. It is the finding of the City that basin plans are essential to establishing a comprehensive approach to a capital improvement program, maintenance of facilities and regulation of new developments. A plan should analyze the measures needed to control ~~surface and stormwater~~surface water and stormwater runoff which results from existing and anticipated development within the basin. The measures investigated to control runoff should include land use regulation such as setback requirements or community plan revisions which revise land use densities as well as the use of drainage facilities. A plan also should recommend the quantity and water quality runoff control measures required to further the purposes set forth in KMC [13.40.030](#), and community goals. The institutional requirements and regulations, including but not limited to land use management, funding needs, and incentives for preserving the natural surface water drainage system should be identified in the plan. The proposed ordinances and regulations necessary to implement the plan shall be transmitted to the council simultaneously with the plan.

M. It is the finding of the City that areas with development related ~~surface and stormwater~~surface water and stormwater problems require comprehensive management of ~~surface and stormwater~~surface water and stormwater. [The use of low impact development best management practices and principles represent the City's preferred and commonly used approach for site development.](#)

N. It is the finding of the City that additional surface water and stormwater runoff problems may be caused by new land use development if not properly mitigated both through protection of natural systems and through constructed improvements. The Surface Water Design Manual and KMC Titles [13](#), [15](#), [18](#) and [19](#) have been adopted by the City to mitigate the impact of land use development. Further mitigation of these impacts is based on expertise which continues to evolve as new information

on our natural systems is obtained and new techniques are discovered. The surface water management program, through reconnaissance studies, basin plans, and other special studies, will continuously provide valuable information on the existing problems and areas of the natural drainage system that need special protection. The City is researching and developing methods to protect the natural drainage system through zoning, buffering and setbacks to alleviate existing problems. Setback and buffering measures allow natural preservation of wetlands and stream corridors to occur, alleviate erosion and water pollution and provide a safe environment for the small mammals and fish which inhabit critical areas. Based upon the findings in this subsection, and as information and methods become available, the city manager, as appropriate, shall draft and submit to the council regulations and development standards to allow protection of the ~~surface and stormwaters~~surface water and stormwater management system including natural drainage systems.

O. The program will maintain long-term fiscal viability and fund solvency for all of its related funds. All required capital and operating expenditures will be covered by service charges and other revenues generated or garnered by the program. The program will pay all current operating expenses from current revenues and will maintain an operating reserve to minimize service impacts due to revenue or expenditure variances from plan during a fiscal year. This reserve will be calculated based on the historic variability of revenue and expenditures. The program will adopt a strategic financial planning approach which recognizes the dynamic nature of the program's fiscal operating environment. Long-term projections will be updated in the program's adopted strategic plan. One-time revenues will be dedicated to one-time-only expenditures and will not be used to support ongoing requirements. The program's approach to financial reporting and disclosure will be comprehensive, open, and accessible.

P. The program shall prepare an annual, multi-year capital improvement program which encompasses all of the program's activities related to the acquisition, construction, replacement, or renovation of capital facilities or equipment. All proposed new facilities will be subject to a consistent and rigorous needs analysis. The program's capital facilities will be planned and financed to ensure that the benefits of the facilities and the costs for them are balanced over time.

Q. The program will manage its debt, if any, to ensure continued high credit quality, access to credit markets, and financial flexibility. All of the program's debt management activities will be conducted to maintain at least the current credit ratings assigned to the City's debt by the major credit rating agencies and to maintain an adequate debt service coverage ratio. Long-term debt will not be used to support operating expenses. The program will develop and maintain a central system for all debt-related records which will include all official statements, bid documents, ordinances, indentures, leases, etc., for all of the program's debt and will accurately account for all interested earnings in debt-related funds. These records

will be designed to ensure that the program is in compliance with all debt covenants and with State and federal laws. [Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.08.060).]

R. It is the finding of the City that surface water, groundwater and stormwater impact public properties, rights-of-way, and privately owned properties within the City. Unless the City agrees to maintain and operate a drainage facility in accordance with this section, a drainage facility shall be a private facility, and the person or persons holding title to the property shall be responsible for operation and maintenance of the drainage facility. The City may assume ownership, maintenance and/or operation of drainage facilities only if the following conditions have been met:

1. The drainage facility is located within a right-of-way; or

2. The drainage facility is not located within a right-of-way and:

a. All necessary easements or dedications entitling the City to properly access, operate and maintain the facility have been conveyed to the City;

b. The facility is located on residential property or properties;

c. The facility is required for reasons beyond the control of the residential property owner;

d. The facility does not contain waters of the State;

e. The facility is not required primarily as a result of impacts associated with groundwater;

f. The facility is not required primarily as a result of runoff from neighboring private properties; and

g. Before assuming maintenance of privately maintained drainage facilities, the City will consider:

(1) The cost of assuming maintenance and operations

(2) The public benefit of assuming maintenance and operations; or

3. Operation and maintenance of the drainage facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:

a. Flooding;

Commented [RS18]:

This policy was discussed and approved by Council during the 2015 Surface Water Master Plan update – Policy 3.3.1.

The intent is to clarify the City's role for managing surface water and stormwater on public properties and rights-of-way versus private property. In the scope of LID integration, this clarifies that LID BMPs located on private property and serving that private property, will not be operated or maintained by the City.

Note, drainage facilities include any constructed drainage feature, including things such as ditches, pipes, etc...

Commented [RS19]: Nonspecific easements do not obligate the City to operate or maintain drainage facilities on private property

Commented [RS20]: The City will not assume responsibility for drainage facilities on non-residential properties

Commented [RS21]: The City will not assume responsibility for any drainage facilities that manage streams or groundwater on private property

Commented [RS22]: The City will not assume responsibility for drainage facilities resulting from localized issues between neighbors

b. Downstream erosion;

c. Property damage due to improper function of the facility;

d. Safety hazard associated with the facility;

e. Degradation of water quality or in-stream resources; or

f. Degradation to the general welfare of the community.

13.40.060 Rate structure.

A. ~~The service charges shall be based on the relative contribution of increased surface and stormwater runoff from a given parcel to the surface and stormwater management system. The percentage of impervious surfaces on the parcel and the total parcel acreage will be used to indicate the relative contribution of increased surface and stormwater runoff from the parcel to the surface and stormwater management system. The relative contribution of increased surface and stormwater runoff from each parcel will determine that parcel's share of the service charge revenue needs. The service charge revenue needs of the program are based upon all or any part, as determined by the city council, of the cost of surface water and stormwater management services or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for that purpose.~~

~~B. The City shall determine the service charge for each parcel within the service area by the following methodology: residential and very lightly developed nonresidential parcels shall receive a flat rate service charge for the reasons set forth in KMC 13.40.050. Light to very heavily developed parcels shall be classified into the appropriate rate category by their percentage of impervious surface coverage. Land use codes or data collected from parcel investigations, or both, will be used to determine each parcel's percentage of impervious surface coverage. After a parcel has been assigned to the appropriate rate category, the service charge for the parcel will be calculated by multiplying the total acreage of the parcel times the rate for that category.~~

C. There is hereby imposed upon all developed properties in the City annual service charges as imposed by the city council by resolution.

~~D. The city council will review the surface water management service charges annually to ensure the long-term fiscal viability of the program and to guarantee that debt covenants are met. The program will use equitable and efficient methods to determine service charges.~~

Commented [RS23]: DELETE – This is covered by Resolution.

~~E. When a parcel with impervious surface is divided by the boundary of the service area and a portion of the parcel's impervious surface drains into the service area, the parcel shall be charged as otherwise provided herein on the basis of the lands and impervious surfaces which drain into the service area. When the city manager has determined that the impervious surface of a parcel, divided by the boundary of the service area, completely drains outside of the service area, the parcel will be exempt from the rates and charges of this chapter.~~

Commented [RS24]: DELETE – Service Area is a County designation

~~F. The city council by ordinance may supplement or alter charges within specific basins and subbasins of the service area so as to charge properties or parcels of one basin or subbasin for improvements, studies or maintenance which the city council deems to provide service or benefit the property owners of one or more basins or subbasins. [Ord. 02-0139 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.08.070).]~~

Commented [RS25]: DELETE – City Council already has this authority.

13.40.070 Rate adjustments and appeals.

A. Any person billed for service charges may file a “request for rate adjustment” with the City within three years of the date from which the bill was sent. However, filing of such a request does not extend the period for payment of the charge.

B. Requests for rate adjustment may be granted or approved by the city manager only when one of the following conditions exists:

1. The parcel is owned and is the personal residence of a person or persons determined by the county assessor as qualified for a low-income senior citizen property tax exemption authorized under RCW [84.36.381](#). Parcels qualifying under this subsection shall be exempt from all charges imposed in KMC [13.40.060](#);
2. The acreage of the parcel charged is in error;
3. The parcel is nonresidential and the actual impervious surface coverage of the parcel charged places it in a different rate category than the rate category assigned by the City;
4. The parcel is nonresidential and the parcel meets the definition of open space in KMC [13.40.010](#). Parcels qualifying under this subsection will be charged only for the area of impervious surface and at the rate which the parcel is classified under using the total parcel acreage;
5. The parcel is served by one or more retention/detention facilities required pursuant to Chapter [13.35](#) KMC, or can be demonstrated by the property owner to provide detention/retention of ~~surface and stormwater~~[surface water and stormwater](#) to the standards in Chapter [13.35](#) KMC, and is maintained at the expense of the parcel owner to the standards required by the City. Parcels

served by facilities permitted 1) prior to September 1, 1998 shall receive a 10% reduction, 2) after September 1, 1998 and prior to December 31, 2009 shall receive a 20% reduction, 3) after December 31, 2009 and prior to December 31, 2016 shall receive a 30% discount, and 4) after December 31, 2016 shall receive a 40% reduction. Larger parcels, which are partially served by a facility, may receive a partial reduction based on the percentage of the parcel served, with only the portion of the parcel being served by the facility receiving the reduction.

6. The service charge bill was otherwise not calculated in accordance with this chapter.

C. The property owner shall have the burden of proving that the rate adjustment sought should be granted.

D. Decisions on requests for rate adjustments shall be made by the city manager based on information submitted by the applicant and by the City within 30 days of the adjustment request except when additional information is needed. The applicant shall be notified in writing of the city manager's decision. If an adjustment is granted which reduces the charge for the current year or two prior years, the applicant shall be refunded the amount overpaid in the current and two prior years.

E. If the city manager finds that a service charge bill has been undercharged, then either an amended bill shall be issued which reflects the increase in the service charge or the undercharged amount will be added to the next year's bill. This amended bill shall be due and payable under KMC [13.40.100](#). The city manager may include in the bill the amount undercharged for two previous billing years in addition to the current bill.

F. Decisions of the city manager on requests for rate adjustments shall be final unless, within 30 days of the date the decision was mailed, the applicant submits in writing to the city manager a notice of appeal setting forth a brief statement of the grounds for appeal and requesting a hearing before the city hearing examiner. The examiner's decision shall be a final decision pursuant to KMC [19.30.070](#). [Ord. 11-0329 § 11; Ord. 02-0139 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.08.080).]

13.40.080 Petition for additional services.

~~A. The City residents inside or outside the existing surface water management service area may petition the city council for establishment of an independent fee for additional services not currently provided by surface water management to them. Sixty percent of the residents of the proposed special service area may petition the city council for the additional service and charge. The purpose of the petition process and additional charge is to: (1) provide additional services to residents within the existing service area; (2) provide additional services to residents outside the service area; or (3) expand the service area to include the area within the petition.~~

Commented [RS26]: DELETE – Service Area is a County designation

~~B. The city manager may develop a process for creating special service areas and the criteria for acceptance of the special service areas. If the city manager develops such a process, the city manager should use the guide in Exhibit B*. [Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.08.085).]~~

Commented [RS27]: DELETE – Service Area is a County designation

~~*Code reviser's note: Exhibit B is on file in the office of the city clerk.~~

13.40.090 Billing procedure.

A. All property subject to charges of the program shall be billed based on the property characteristics existing on November 1st of the year prior to the billing year and at the rate as set forth in KMC [13.40.060](#). Billing year is the year that the bills are sent. The service charge shall be displayed and billed on the annual property tax statement for the parcel and shall be mailed to the name and address shown on the real property tax roll at the time annual property tax bills are prepared. Parcels which are exempt from property taxes and do not receive an annual property tax statement will receive a bill only for the service charge. If a payment less than the sum of the total property tax plus service charge or less than the sum of one-half of the property tax plus one-half of the service charge is received for a combined property tax and service charge, and the parcel owner has not otherwise specified, the city manager shall first apply the payment to the annual property tax of the parcel pursuant to the provisions of Chapter [84.56](#) RCW and then apply any remaining amount to the service charge.

B. The total amount of the service charge shall be due and payable to the city manager on or before the thirtieth day of April and shall be delinquent after that date; however, if one-half of such service charge is paid on or before the said thirtieth day of April, the remainder shall be due and payable on or before the thirty-first day of October and shall be delinquent after that date.

C. Parcel characteristics affecting the service charge which are altered after November 1st of any year shall not be a basis for calculation of the service charge until after December 31st of the following year.

13.40.100 Delinquencies and foreclosures.

A. Delinquent service charges shall bear interest as provided in RCW [36.89.092](#) at the rate of 12 percent per annum, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the charges regardless of when the charges were first delinquent.

B. Pursuant to RCW [36.89.093](#), the City shall have a lien for delinquent service charges, including interest thereon, against any property subject to service charges. The lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Pursuant to RCW [36.89.093](#), such lien shall be effective and shall be enforced and foreclosed in the same manner as the foreclosure of real property tax liens as provided in RCW [36.94.150](#). The City may commence to

foreclose a surface water management service charge lien after three years from the date surface water management charges become delinquent. Pursuant to RCW [36.94.150](#) collections shall include costs of foreclosure in addition to service charges and interest. [Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.08.100).]

13.40.110 Administrative procedures.

The city manager shall develop administrative procedures relating to the implementation of this chapter. This includes but is not limited to procedures for the imposition and collection of service charges and/or for filing of liens and initiation of foreclosure on delinquent accounts and the collection of the debt service portion of the service charge in areas that annex or incorporate. [Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.08.120).]

13.40.120 Report of revenue and expenditure analysis.

The surface water management program shall report to the city council every three years regarding the results of a revenue and expenditure analysis for capital improvement projects ~~in the City for each subarea within the service area to determine the relationship between expenditures and revenues generated in each subarea. The program shall identify areas where additional expenditures are required and how the program expects to address any differences.~~ [Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.08.125).]

Commented [RS28]: DELETE – Service Area and Sub Area are County designations

[Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.08.140).]

13.40.130 Penalty.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished as set forth in Chapter [1.15](#) KMC. [Ord. 98-0016 § 5.]

DRAFT ORDINANCE 16-0428

ATTACHMENT F – ADOPTION OF NEW CHAPTER 13.45

**CHAPTER 13.45
WATER QUALITY**

Sections:

- 13.45.010 Purpose.
- 13.45.030 Discharges into City waters.
- 13.45.040 Stormwater Pollution Prevention Manual.
- 13.45.050 Administration.
- 13.45.060 Enforcement.
- 13.45.070 Hazards.
- 13.45.080 Criminal penalty.
- 13.45.090 Civil penalties for water quality.
- 13.45.100 Construction – Intent.
- 13.45.120 Penalty.

13.45.010 Purpose.

A. The purpose of this chapter is to protect the City's surface and groundwater quality by providing minimum requirements for reducing and controlling the discharge of contaminants. The city council recognizes that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, this chapter prohibits the discharge of contaminants into ~~surface and stormwaters~~surface water and stormwater and groundwater, and outlines preventive measures to restrict contaminants from entering such waters. These measures include the implementation of best management practices (BMPs) by the residents of the City.

B. The city council finds this chapter is necessary to protect the health, safety and welfare of the residents of the City and the integrity of the City's resources for the benefit of all by: minimizing or eliminating water quality degradation; preserving and enhancing the suitability of waters for recreation, fishing, and other beneficial uses; and preserving and enhancing the aesthetic quality and biotic integrity of the water. The city council recognizes that implementation of this chapter is required under the Clean Water Act, 33 U.S.C. 1251 et seq. In meeting the intent of the Clean Water Act, the city council also recognizes the importance of maintaining economic viability while providing necessary environmental protection and believes this chapter helps achieve both goals. [Ord. 09-0299 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.12.005).]

13.45.030 Discharges into City waters.

A. It is unlawful for any person to discharge any contaminants into surface water and stormwater or groundwater. Contaminants include, but are not limited to, the following:

1. Trash or debris;
2. Construction materials;
3. Petroleum products including but not limited to oil, gasoline, grease, fuel oil, and heating oil;
4. Antifreeze and other automotive products;
5. Metals in either particulate or dissolved form;
6. Flammable or explosive materials;
7. Radioactive material;
8. Batteries;
9. Acids, alkalis, or bases;
10. Paints, stains, resins, lacquers, or varnishes;
11. Degreasers and solvents;
12. Drain cleaners;
13. Pesticides, herbicides, or fertilizers;
14. Steam cleaning wastes;
15. Soaps, detergents, or ammonia;
16. Swimming pool backwash;
17. Chlorine, bromine, and other disinfectants;
18. Heated water;
19. Domestic animal wastes;
20. Sewage;
21. Recreational vehicle waste;
22. Animal carcasses;

23. Food wastes;

24. Bark and other fibrous materials;

25. Collected lawn clippings, leaves, or branches;

26. Silt, sediment, or gravel;

27. Dyes (except as stated in subsection (D)(1) of this section);

28. Chemicals, not normally found in uncontaminated water; and

29. Any hazardous material or waste not listed above.

B. Any connection, identified by the city manager, that could convey anything not composed entirely of ~~surface and stormwater~~ surface water and stormwater directly to ~~surface and stormwater~~ surface water and stormwater or groundwater is an illicit connection and is prohibited, with the following exceptions:

1. Connections conveying allowable discharges;

b. Connections conveying discharges pursuant to an NPDES permit (other than an NPDES stormwater permit) or a State waste discharge permit; and

c. Connections conveying effluent from on-site sewage disposal systems to subsurface soils.

C. This section applies to certain business and residential activities that have the potential to contribute pollutants to stormwater runoff or directly to receiving waters. To prevent a prohibited discharge, BMPs from the Stormwater Pollution Prevention Manual, or supplemental BMPs as determined necessary by the city manager, shall be applied to the activities identified in the Stormwater Pollution Prevention Manual. Examples of common activities identified in the Stormwater Pollution Prevention Manual that might result in prohibited discharges include, but are not limited to, the following:

1. Potable water line flushing;

2. Dust control with water;

3. Automobile and boat washing;

4. Pavement and building washing;

5. Swimming pool and hot tub maintenance;
6. Vehicle and equipment repair and maintenance;
7. Building repair and maintenance;
8. Landscaping activities and vegetation management;
9. Hazardous waste handling;
10. Solid and food waste handling; and
11. Application of pesticides or other chemicals (other than landscaping maintenance).

D. The following types of discharges shall not be considered prohibited discharges for the purpose of this chapter unless the city manager determines that the type of discharge, whether singly or in combination with other discharges, is causing significant contamination of ~~surface and stormwater~~surface water and stormwater or groundwater:

1. Spring water;
2. Diverted stream flows;
3. Uncontaminated water from crawl space pumps, foundation drains, or footing drains;
4. Pumped groundwater flows that are uncontaminated;
5. Materials placed as part of an approved habitat restoration or bank stabilization project;
6. Natural uncontaminated surface water or groundwater;
7. Flows from riparian habitats and wetlands;
8. Collected rainwater that is uncontaminated;
9. Uncontaminated groundwater that seeps into or otherwise enters stormwater conveyance systems;
10. Air conditioning condensation;
11. Irrigation water from agricultural sources that is commingled with stormwater runoff; and

12. Other types of discharges as determined by the city manager.

E. Exceptions.

1. Dye testing is allowable but requires verbal notification to the city manager at least one day prior to the date of test.

2. A person does not violate subsections A and B of this section if:

a. That person has properly designed, constructed, implemented and is properly maintaining BMPs, and is carrying out AKART as required by this chapter, but contaminants continue to enter ~~surface and stormwater~~surface water and stormwater or groundwater; or

b. That person can demonstrate that there are no additional contaminants being discharged from the site above the background conditions of the water entering the site.

3. A person who, under subsection (E)(2) of this section, is not in violation of subsections A and B of this section, is still liable for any prohibited discharges through illicit connections, dumping, spills, or other discharges not addressed by BMPs satisfying subsection (E)(2) of this section that allow contaminants to enter ~~surface and stormwater~~surface water and stormwater or groundwater.

4. Emergency response activities or other actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter in order to avoid an imminent threat to public health or safety shall be exempt from this section. The city manager may specify actions that qualify for this exception in City procedures. A person undertaking emergency response activities shall take steps to ensure that the discharges resulting from such activities are minimized to the greatest extent possible. In addition, this person shall evaluate BMPs and the site plan, where applicable, to restrict recurrence. [Ord. 09-0299 § 3; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.12.025).]

13.45.040 Stormwater Pollution Prevention Manual.

A. The Kenmore Stormwater Pollution Prevention Manual, dated April, 2016, is adopted for use in the City. The manual is available in electronic form from the City. [The Stormwater Pollution Prevention Manual shall be amended for use by the City as follows:](#)

[1. References to the King County Surface Water Design Manual shall mean as adopted by the City per Chapter 13.35 KMC.](#)

Commented [RS29]: The City is adopting the King County Stormwater Pollution Prevention Manual.

[2. References to King County agencies, departments, and officials shall mean the City and the city manager.](#)

B. Compliance with this chapter shall be achieved through the use of best management practices described in the Stormwater Pollution Prevention Manual. In applying the Stormwater Pollution Prevention Manual, the city manager shall first require the implementation of source control BMPs. If these are not sufficient to prevent contaminants from entering ~~surface and stormwater~~surface water and stormwater or groundwater, the city manager may require implementation of treatment BMPs, as set forth in AKART. The city manager will provide, upon reasonable request, available technical assistance materials and information, and information on outside financial assistance options to persons required to comply with this chapter.

C. In applying the Stormwater Pollution Prevention Manual to prohibited discharges from normal single-family residential activities, the city manager shall use public education and warnings as the primary method of gaining compliance with this chapter and shall not use citations, notice and orders, assessment of civil penalties and fines, or other compliance actions as authorized in Chapter 1.20 KMC, unless the city manager determines:

1. The discharge from a normal single-family residential activity, whether singly or in combination with other discharges, is causing a significant contribution of contaminants to ~~surface and stormwater~~surface water and stormwater or groundwater; or
2. The discharge from a normal single-family residential activity poses a hazard to the public health, safety or welfare, endangers any property or adversely affects the safety and operation of City right-of-way, utilities or other City-owned or maintained property.

D. Persons implementing BMPs through another federal, State, or local program shall not be required to implement the BMPs prescribed in the Stormwater Pollution Prevention Manual, unless the city manager determines the alternative BMPs are ineffective at reducing the discharge of contaminants. If the other program requires the development of a stormwater pollution prevention plan or other best management practices plan, the person shall make their plan available to the City upon request. Persons who qualify for exemptions include, but are not limited to, persons who are:

1. Required to obtain a general or individual NPDES permit from the Washington State Department of Ecology;
2. Implementing and maintaining, as scheduled, a City-approved farm management plan;

3. Implementing BMPs in compliance with Chapter [18.70](#) KMC;
4. Implementing BMPs in compliance with the management program of the City's NPDES permit;
5. Engaged in forest practices, with the exception of forest practices occurring on lands platted after January 1, 1960, or on lands being converted to another use, or when regulatory authority is otherwise provided to local government by RCW [76.09.240](#); or
6. Identified by the city manager as being exempt from this section. [Ord. 09-0299 § 4; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.12.035).]

13.45.050 Administration.

The city manager is authorized to implement and enforce the provisions of this chapter. The city manager is authorized to promulgate and adopt administrative rules and regulations for the purpose of implementing and enforcing the provisions of this chapter. [Ord. 09-0299 § 5; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.12.045).]

13.45.060 Enforcement.

- A. The city manager is authorized to carry out enforcement actions pursuant to the enforcement and penalty provisions of this chapter, Chapters [1.15](#) and [1.20](#) KMC. and other enforcement provisions adopted by rule.
- B. The city manager shall use public education, warnings, technical assistance and the implementation of BMPs and, when necessary, AKART, as the primary methods of gaining compliance with this chapter, unless the city manager determines a violation is a result of a flagrant act that should be addressed through immediate penalties or poses a hazard as defined in KMC [13.45.070](#), Hazards.
- C. The city managers shall develop and implement additional enforcement procedures. These procedures shall indicate how the City will investigate and respond to reports or instances of noncompliance with this chapter and shall identify by title the official(s) responsible for implementing the enforcement procedures.
- D. The city manager is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

1. The city manager may observe BMPs or examine or sample ~~surface and stormwater~~[surface water and stormwater](#) or groundwater as often as may be necessary to determine compliance with this chapter. Whenever an inspection of a property is made, the findings shall be recorded and a copy of the inspection findings shall be furnished to the owner or the person in charge of the property after the conclusion of the investigation and completion of the inspection findings. The

person in violation of this chapter shall be responsible for all costs and expenses related to the City's sampling, examination, analysis, application of BMPs authorized herein and/or abatement of the violation.

2. When the city manager has made a determination under subsection (D)(1) of this section that any person is violating this chapter, the city manager may require the violator to sample and analyze any discharge, ~~surface and stormwater~~surface water and stormwater, groundwater, and/or sediment, in accordance with sampling and analytical procedures or requirements determined by the city manager. If the violator is required to complete this sampling and analysis, a copy of the analysis shall be provided to the city manager. The person in violation of this chapter shall be responsible for all costs and expenses related to the sampling, examination, analysis, application of BMPs required by the city manager and/or abatement of the violation.

E. In addition to any other penalty or method of enforcement, the City may bring actions for injunctive or other relief to enforce this chapter. [Ord. 09-0299 § 6; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.12.050).]

13.45.070 Hazards.

A. Whenever the city manager determines that any violation of this chapter poses a hazard to public health, safety, or welfare, endangers any property, or adversely affects the safety and operation of City right-of-way, utilities, and/or other property owned or maintained by the City, the person holding title to the subject property, and/or other person or agent in control of said property, upon receipt of notice in writing from the city manager, shall within the period specified therein address the cause of the hazardous situation in conformance with the requirements of this chapter.

B. Notwithstanding any other provisions of this chapter, whenever it appears to the city manager that conditions covered by this chapter exist requiring immediate action to protect the public health and/or safety, the city manager is authorized to enter at all times in or upon any such property, public or private, for the purpose of inspecting and investigating such emergency conditions. The city manager, without prior notice, may order the immediate discontinuance of any activity leading to the emergency condition. Failure to comply with such order shall constitute a misdemeanor. [Ord. 09-0299 § 7; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.12.060).]

13.45.080 Criminal penalty.

Any willful violation of an order issued pursuant to KMC [13.45.060](#) or [13.45.070](#) for which a criminal penalty is not prescribed by State law is a misdemeanor. [Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.12.070).]

13.45.090 Civil penalties for water quality.

The enforcement provisions for water quality are intended to encourage compliance with this chapter. To achieve this, violators will be required to take corrective action and comply with the requirements of this chapter, and may be required to pay a civil penalty for the redress of ecological, recreational, and economic values lost or damaged due to their unlawful action.

A. The provisions in this section are in addition to and not in lieu of any other penalty, sanction or right of action provided by law.

B. Any person in violation of this chapter may be subject to civil penalties assessed as follows:

1. An amount reasonably determined by the city manager to be equivalent to the economic benefit the violator derives from the violation as measured by the greater of the resulting increase in market value of the property or business value received by the violator, or savings of construction or retrofitting costs realized by the violator performing any act in violation of this chapter; and
2. An amount, not to exceed \$25,000, that is reasonably based upon the nature and gravity of the violation and the cost to the City of enforcing this chapter against the violator.

C. Any person who, through an act of commission or omission, aids or abets in a violation shall be considered to have committed the violation for the purposes of the civil penalty.

D. Each violator is jointly and severally liable for a violation of this chapter. The city manager may take enforcement action, in whole or in part, against any violator. The decisions whether to take enforcement action, what type of action to take, and which person to take action against, are all entirely within the city manager's discretion. Factors to be used in taking such enforcement actions shall be:

1. Awareness of the violation;
2. Ability to correct the violation;
3. Cooperation with government agencies; and
4. Degree of impact or potential threat to water or sediment quality, human health, or the environment.

E. In the event more than one person is determined to have violated the provisions of this chapter, all applicable civil penalties may be imposed against each person, and recoverable damages, costs, and

expenses may be allocated among the persons on any equitable basis. Factors that may be considered in determining an equitable allocation include:

1. Awareness of the violation;
2. Ability to correct the violation;
3. Ability to pay damages, costs, and expenses;
4. Cooperation with government agencies; and
5. Degree of impact or potential threat to water or sediment quality, human health, or the environment.

F. The city manager may engage in mitigation discussions with the violator. The city manager may reduce the penalties based upon one or more of the following mitigating factors:

1. The person responded to City attempts to contact the person and cooperated with efforts to correct the violation;
2. The person showed due diligence and/or substantial progress in correcting the violation; or
3. An unknown person was the primary cause of the violation.

Payment of a monetary penalty pursuant to this chapter does not relieve the person of the duty to correct the violation.

G. All civil penalties recovered during the enforcement of this chapter under Chapter [1.20](#) KMC shall be deposited into a fund of the City and shall be used for the protection of ~~surface and stormwaters~~[surface water and stormwater](#) or groundwater as set forth in this chapter, through education or enhanced implementation. [Ord. 09-0299 § 8; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.12.080).]

13.45.100 Construction – Intent.

A. This chapter is enacted as an exercise of the City's power to protect and preserve the public health, safety and welfare. Its provision shall be exempted from the rule of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. This chapter is not enacted to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

B. The primary obligation of compliance with this chapter is placed upon the person holding title to the property. Nothing contained in this chapter is intended to be or shall be construed to create or form a basis for liability for the City, its officers, employees or agents, for any injury or damage resulting from the failure of the person holding title to the property to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter by the City, its officers, employees or agents. [Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.12.090).]

13.45.110 Penalty.

Except as provided in KMC [13.45.090](#)(B)(1) and (2) for civil penalties, any person violating any of the provisions of this chapter may be subject to the general penalty and enforcement provisions in this chapter and Chapters [1.15](#) and [1.20](#) KMC. [Ord. 09-0299 § 9; Ord. 01-0124 § 1; Ord. 98-0016 § 5.]

DRAFT ORDINANCE 16-0428

ATTACHMENT G – AMENDMENTS TO CHAPTER 15.25

TITLE 15 – BUILDINGS AND CONSTRUCTION

Chapter 15.25 – Land Alterations

15.25.010 – Purpose:

This chapter is intended to regulate land alterations within the City in order to protect public health, safety and welfare by:

- A. Minimizing adverse stormwater impacts caused by land alterations;
- B. Protecting water quality from the adverse impacts associated with erosion and sedimentation;
- C. Minimizing aquatic and terrestrial wildlife habitat loss caused by the removal of vegetation;
- D. Encouraging the retention of native vegetation and soils during clearing and grading activities;
- E. Protecting critical areas from adverse clearing and grading activities;
- F. Preventing damage to property and harm to persons caused by land alterations;
- G. Establishing administrative procedures for the issuance of permits, approval of plans, and inspection of land alteration operations; and
- H. Providing penalties for the violation of this chapter.

15.25.030 – Definitions:

O. “Impervious surface” means a non-vegetated surface which either prevents or retards the entry of water into the soil mantle under natural conditions prior to development, and/or which causes water to run off the surface in greater quantities or at a rate of flow greater than the flow under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, paved areas, gravel areas, areas of packed or oiled earthen materials or other surfaces which similarly impede the natural infiltration of surface and stormwater. Open uncovered flow control or water quality treatment facilities shall not be considered as impervious surfaces for the purposes of determining whether thresholds for the application of minimum requirements are exceeded, but shall be considered impervious surfaces for the purposes of runoff modeling.

15.25.070 – Permit Required – Exception:

C. Engineering.

1. Less than 2,000 square feet of replaced impervious surface or new plus replaced impervious surface that is not within critical areas or associated buffers, and

2. Land alterations that are exempt from a grading permit and that do not alter the method by which the stormwater leaves the site.

15.25.160 – Standards:

B. Cuts and fills shall conform to the following provisions unless otherwise approved by the city manager.

1. Slope. No slope of cut and fill of surfaces shall be steeper than is safe for the intended use and shall not exceed two horizontal to one vertical, unless approved by the geotechnical engineer of record.

2. Erosion Control. All disturbed areas including faces of cuts and fill slopes shall be prepared and maintained to control erosion in compliance with subsection A of this section.

3. Preparation of Ground. The ground surface shall be prepared to receive fill by removing vegetation, topsoil, and other unsuitable materials.

4. Fill Material. Fill material shall not include organic, frozen or other deleterious materials, and shall be made with nonnoxious, nonflammable, noncombustible and nonputrescible solids. No rock or similar irreducible material greater than 18 inches in diameter shall be used.

5. Drainage. Provisions shall be made to:

a. Prevent any surface water or seepage from damaging the cut face of any excavations or the sloping face of a fill; and

b. Carry any surface waters that are or might be concentrated as a result of a fill or excavation to a natural watercourse or public storm drain system, or by other means approved by the department of public works.

6. Compaction of Permeable Surfaces. The compaction of new permeable surfaces should protect the soil moisture holding capacity. The duff layer or native topsoil shall be retained to the maximum extent practicable. Soil amendments shall be required to mitigate for lost moisture holding capacity where compaction or removal of some or all of the duff layer or underlying topsoil has occurred. The amendment must be such that the replaced topsoil is a minimum of 8 inches thick, unless the applicant demonstrates that a different thickness will provide conditions equivalent to the soil moisture holding capacity native to the site.

7. Bench/Terrace. Benches, if required, at least 10 feet in width shall be back-sloped and shall be established at not more than 25 feet vertical intervals to control surface drainage and debris. Swales or ditches on benches shall have a maximum gradient of five percent.

8. Access Roads Maintenance. Access roads to grading sites shall be maintained and located to the satisfaction of the city manager to minimize problems of dust, mud and traffic circulation.

9. Access Roads – Gate. Access roads to grading sites shall be controlled by a gate when required by the city manager.

10. Warning Signs. Signs warning of hazardous conditions, if such exist, shall be established at locations as required by the city manager. All signage and traffic control shall be compliant with Manual on Uniform Traffic Control Devices.

11. Fencing. Fencing, where required by the city manager to protect life, limb and property, must be installed with lockable gates and must be closed and locked when work is not occurring at the site. The fence must be no less than five feet in height and cannot have a horizontal opening larger than two inches.

12. Setbacks. The tops and the toes of cut and fill slopes shall be set back from property boundaries as far as necessary to protect adjacent properties and to prevent damage from water runoff or erosion of the slopes.

The tops and the toes of cut and fill slopes shall be set back from structures as far as is necessary to protect foundation support and to prevent damage from water runoff or erosion of the slopes.

Slopes and setbacks shall be determined by the city manager.

13. Easements. The applicant shall provide to the department copies of recorded and executed easements for land alterations that are proposed on neighboring properties.

DRAFT ORDINANCE 16-0428

ATTACHMENT H – AMENDMENTS TO SECTION 17.20.130

TITLE 17 – LAND DIVISION

Chapter 17.20 – Subdivisions and Short Subdivisions

17.20.130 – Lot Segregations – Clustered Development:

When residential lot clustering is proposed, the following provisions shall be met:

- A. Any open space resulting from lot clustering shall not be altered or disturbed except as specified on recorded documents creating the open space. Such open spaces may be retained under ownership by the subdivider, conveyed to residents of the development, or conveyed to a third party. When access to the open space is provided, the access shall be located in a separate tract;
- B. In the R-1 zone, open space tracts created by clustering required by KMC 18.21.030 shall be located and configured to create urban separators and greenbelts as required by the comprehensive plan or open space functional plans; to connect and increase protective buffers for critical areas; to connect and protect wildlife habitat corridors designated by the comprehensive plan; and to connect existing or planned public parks or trails. The City may require open space tracts created under this subsection to be dedicated to an appropriate managing public agency or qualifying private entity such as a nature conservancy.
- C. Open spaces created through lot clustering are encouraged to include retained native vegetation.
- D. Landscape based-stormwater management practices may be located within open spaces created through lot clustering, provided they are not located within critical areas.

DRAFT ORDINANCE 16-0428

**ATTACHMENT I – AMENDMENTS TO CHAPTERS 18.20, 18,21, 18.23, 18.25,
18.25A, 18.25B, 18.26, 18.27, 18.28, 18,28A, 18.29, 18.30, 18.35, 18.40, 18.50,
AND 18.52**

TITLE 18 – ZONING

Chapter 18.20 – Technical Terms and Land Use Definitions

18.20.1400 Impervious surface.

“Impervious surface” means a non-vegetated surface that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials or other surfaces which similarly impede the natural infiltration of surface and stormwater. Impervious surface shall not include areas of turf, landscaping, or natural vegetation. Open uncovered flow control or water quality treatment facilities shall not be considered as impervious surfaces under this title, but shall be considered impervious surfaces for the purposes of runoff modeling

18.20.1671 Low impact development (LID).

“Low impact development (LID)” means a stormwater management and land development strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

Chapter 18.21 – Residential Zones

18.21.030 – Residential zones R-1, R-4 and R-6 – Development standards

The following zone-specific development standards in Table B apply in the R-1, R-4 and R-6 residential zones:

Table B. R-1, R-4 and R-6 Residential Zones Development Standards

STANDARDS	Z O N E S	R-1 ¹	R-4	R-6
	Base Density: <i>Dwelling Unit/Acre</i> ²		1 du/ac	4 du/ac ³
Maximum Density: <i>Dwelling Unit/Acre</i> ⁴			6 du/ac	9 du/ac
Minimum Density				
Minimum Lot Width ⁶		35 ft. ⁷	30 ft.	30 ft.
Minimum <i>Street Setback</i>		20 ft. ⁷	15 ft. ^{8,9}	15 ft. ^{8,9}
Minimum Side <i>Setback</i> ^{5,10}		5 ft. ⁷	15 ft. total ¹¹	15 ft. total ¹¹
Minimum Rear <i>Setback</i> ^{5,10}		5 ft. ⁷	20 ft.	20 ft.
Base Height ¹²		35 ft.	35 ft.	35 ft. 45 ft. ¹³
<u>Base <i>Impervious Surface</i>: Percentage</u>		<u>30%</u>	<u>45%</u>	<u>60%</u>
Maximum <i>Impervious Surface</i> : Percentage ¹⁴		30% ¹⁵	55%	70%
Minimum Lot Size		2,500 sq. ft.	7,200 sq. ft. ^{16,17}	5,400 sq. ft. ^{16,17}

...

¹⁴ Applies to each individual *lot*. *Impervious surface* area standards for:

- a. Regional *uses* shall be established at the time of permit review;
- b. Nonresidential *uses* in residential zones shall comply with KMC [18.21.060](#) and [18.30.170](#);
- c. Individual *lots* in the R-4 through R-6 zones which are less than 9,076 square feet in area shall be subject to the applicable provisions of the nearest comparable R-6 zone;
- d. *Lots* may be increased beyond the total amount permitted in this chapter subject to approval of a *conditional use permit*.
- e. The base *impervious surface percentage* may be exceeded, up to the maximum *impervious surface percentage*, provided low impact development strategies are implemented subject to approval by the *City Manager*.

18.21.060 – Nonresidential land uses in residential zones:

A. Impervious surface coverage shall not exceed:

- 1. Seventy percent of the site in the R-1 through R-6 zones.
- 2. Eighty percent of the site in the R-12 through R-48 zones.

Chapter 18.22 – Neighborhood Business Zone

18.22.020 – Neighborhood business zone – Development standards:

Table B. Neighborhood Business Zone Development Standards

Maximum Impervious Surface: Percentage ⁹	85%
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⁹ The impervious surface area for any lot may be increased beyond the total amount permitted in this chapter subject to approval of a conditional use permit.

Chapter 18.23 – Community Business Zone

18.23.040 – Zoning standards:

Table B

Minimum Interior Setback ¹	0 feet for commercial or mixed use development except for interior lot lines adjoining property zoned R-1 to R-6. 5 feet landscaped setback for residential except
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	<p>for interior lot lines adjoining property zoned R-1 to R-6. Native vegetation is encouraged.</p> <p>For all interior lot lines adjoining a property zoned R-1 to R-6 a 15-foot landscaped setback of native vegetation is required.</p>
Maximum Impervious Surface: Percentage	90%

Chapter 18.24 – Downtown Residential Zone

18.24.040 – Zoning standards:

Table B. Downtown Residential Development Standards

Minimum Street Setback	<p>Primary structure – 6 ft. min.; 8 ft. min. average</p> <p>Garage, carport, paved parking – 10 ft.</p>
Maximum Street Setback	West of 68th Avenue NE, the maximum setback is 10 ft
Minimum Interior Setback	5 ft.; otherwise when adjoining property zoned R-1 to R-6 zone then 20 ft.
Maximum Impervious Surface: Percentage	90%

Chapter 18.25 – Downtown Commercial Zone

18.25.040 – Zoning standards:

Table B. Downtown Commercial Development Standards

Street Setback	<p>Minimum 10 ft. from SR-522, unless otherwise allowed through Chapter 18.52 KMC, Downtown Design Standards; other streets 0 ft.</p> <p>Maximum 10 ft. unless otherwise allowed through Chapter 18.52 KMC, Downtown Design Standards</p> <p>The City may authorize intrusions of structural elements into the public right-of-way, including awnings, columns, bay windows, or others, through the design review, site plan review, building permit review, or right-of-way use permit processes, if such intrusions would not impede safe travel by pedestrians, solar access is not significantly diminished, and City liability is limited</p>
Minimum Interior Setback	0 ft.; except when property adjoins R-1 to R-12 property, then 20 ft.
Maximum Impervious Surface: Percentage	90%

Chapter 18.25A – Urban Corridor Zone

18.25A.060 – Zoning standards:

Table C. Urban Corridor Zone Development Standards

Minimum Interior Setback	20 ft ³
Maximum Impervious Surface: Percentage	90%

³ Required on property lines adjoining residential zones.

18.25A.070 – Additional Development Standards:

A. Where the urban corridor zone abuts a residential zone, the city manager may require additional landscaping pursuant to Chapter 18.35 KMC, blank wall treatments pursuant to Chapter 18.52 KMC, and/or measures to address building mass and bulk pursuant to KMC 18.52.310 and/or 18.52.330 in order to mitigate impacts of new development on neighboring residential areas.

B.4.d. Vegetation, including required vegetation screening, provided it is designed and of a size that will not obscure the view from the public right-of-way to the lake at the time of planting or upon future growth. Low growing, native vegetation is encouraged. In the event of a conflict between required landscaping and view preservation, view preservation shall take precedence over landscaping requirements;

Chapter 18.25B – Waterfront Commercial Zone

18.25B.040 – Zoning standards:

Table B. Waterfront Commercial Development Standards

Street Setback	10 ft ²
Minimum Interior Setback	20 ft ³
Maximum Impervious Surface: Percentage	90%

² Fuel pump islands shall be placed no closer than 25 feet to street front lines.

³ Required on property lines adjoining residential zones.

18.25B.050 – Additional Development Standards:

A. Where the waterfront commercial zone abuts a residential zone, the city manager may require additional landscaping pursuant to Chapter 18.35 KMC, blank wall treatments pursuant to Chapter 18.52 KMC, and/or measures to address building mass and bulk pursuant to KMC 18.52.310 and/or 18.52.330 in order to mitigate impacts of new development on neighboring residential areas. Native vegetation is preferred for these screening treatments.

Chapter 18.26 – Regional Business Zone

18.26.070 – Zoning standards:

Table D. Regional Business Zone Development Standards

Minimum Street Setback	10 ft ²
Minimum Interior Setback	20 ft ³
Maximum Impervious Surface: Percentage	90%

² Gas station pump islands shall be placed no closer than 25 feet to street front lines.

³ Required on property lines adjoining residential zones.

18.26.080 – Additional Development Standards:

A. Where the regional business zone abuts a residential zone, the city manager may require additional landscaping pursuant to Chapter 18.35 KMC, blank wall treatments pursuant to Chapter 18.52 KMC, and/or measures to address building mass and bulk pursuant to KMC 18.52.310 and/or 18.52.330 in order to mitigate impacts of new development on neighboring residential areas.

Chapter 18.27 – Public and Semi-Public Zone

18.27.040 – Public and semi-public zone – Development standards:

Table B. Public and Semi-Public Zone Development Standards

Minimum Street Setback	0 ft., 10 ft., or 20 ft. ³
Minimum Interior Setback	0 ft., 5 ft., or 20 ft. ³
Maximum Impervious Surface: Percentage	70%, 90% ⁵

³ a. Street setbacks: the minimum street setback varies depending on the adjacent zoning:

(1) Zero feet if adjacent zoning is downtown commercial or downtown residential.

(2) Twenty feet if adjacent zoning is R-1 to R-6.

(3) Ten feet in all other cases.

b. Interior setbacks: zero feet if adjacent zoning is downtown commercial or downtown residential; 20 feet if adjacent zoning is R-1 to R-6; five feet in all other cases.

⁵ a. Ninety percent if abutting properties are zoned downtown commercial or downtown residential or regional business. Seventy percent in all other cases.

b. Measures to reduce impervious surfaces and to promote low impact development shall be employed unless infeasible, consistent with adopted Kenmore stormwater management standards.

18.27.050 – Additional Development Standards:

A. Where the public and semi-public zone abuts a residential zone, the city manager may require a landscaping screen pursuant to Chapter 18.35 KMC in order to screen views of parking lots, accessory buildings, or other features within the public and semi-public zone. Aesthetic safety, security, and maintenance factors shall be considered when considering the type of screen to be employed. Native vegetation is preferred for these screening treatments.

Chapter 18.28 – Parks Zone

18.28.040 – Parks zone – Development standards:

Table B. Parks Zone Development Standards

Minimum Street Setback	0 ft., 10 ft., or 20 ft. ³
Minimum Interior Setback	5 ft. or 20 ft. ³
Maximum Impervious Surface: Percentage	2-30% ⁵

³ a. Street setbacks: the minimum street setback varies depending on the adjacent zoning:

- (1) Zero feet if adjacent zoning is downtown commercial or residential.
- (2) Twenty feet if adjacent zoning is R-1 to R-6.
- (3) Ten feet in all other zones.

b. Interior setbacks: 20 feet if adjacent zoning is R-1 to R-6; five feet in all other zones.

⁵ a. For the purposes of this zone, paved trails are not considered impervious surface; provided, that City stormwater and other applicable requirements are met.

Commented [RS1]: This language will remain unchanged.

b. The following maximum impervious surface standards apply based on the size of the park property;

- (1) One hundred acres or greater: five percent.
- (2) Thirty to 100 acres: 10 percent.
- (3) Less than 30 acres: 30 percent.

b. Measures to reduce impervious surfaces and to promote low impact development shall be employed unless infeasible, consistent with adopted Kenmore stormwater management standards.

18.28.050 – Additional Development Standards:

A. Where the parks zone abuts a residential zone, the city manager may require a landscaping screen pursuant to Chapter 18.35 KMC in order to screen views of parking lots, accessory buildings, or other features within the parks zone. Aesthetic, safety, security, and maintenance factors shall be considered when considering the type of screen to be employed. Native vegetation is preferred for these screening treatments.

Chapter 18.28A – Golf Course Zone

18.28A.040 – Golf course zone – Development standards:

Table B. Golf Course Zone Development Standards

Minimum Street Setback	20 ft. or 30 ft. ³
Minimum Interior Setback	10 ft. or 20 ft. ³
Maximum Impervious Surface: Percentage	10% ⁵

³ a. Street setbacks: the minimum street setback varies depending on the adjacent zoning:

- (1) Thirty feet if adjacent zoning is R-1 to R-6.
- (2) Twenty feet in all other cases.

b. Interior setbacks: 20 feet if adjacent zoning is R-1 to R-6; 10 feet in all other cases.

c. Netting or fencing and support structures for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the interior setback requirements; provided, that the maximum height shall not exceed 75 feet.

⁵

a. Measures to reduce impervious surfaces and to promote low impact development shall be employed unless infeasible, consistent with adopted Kenmore stormwater management standards.

18.28A.050 – Golf Course Zone - Additional Development Standards:

A. Where the golf course zone abuts a residential zone, the city manager may require a landscaping screen pursuant to Chapter 18.35 KMC in order to screen views of parking lots, accessory buildings, or other features within the golf course zone. Aesthetic, safety, security, and maintenance factors shall be considered when considering the type of screen to be employed. Native vegetation is preferred for these screening treatments.

18.29.070 – Parking.

E. Maximum parking within the TOD district overlay shall not exceed the minimum requirement calculated under the provisions of KMC 18.40.030.

- 1. Applicants may be allowed to exceed the maximum parking if the applicant can produce a parking study that demonstrates probable on-site parking needs that are significantly higher than similar uses. This traffic study shall be subject to review by the city manager before approval for additional parking is granted. All parking granted in excess of the maximum shall be provided in a structured parking garage or under building and screened from the street frontage.

Chapter 18.30 – Development Standards – General

18.30.230 – Setbacks – Projections and structures allowed:

N. Stormwater conveyance and control facilities, both above and below ground, provided such projections are:

1. Consistent with setback, easement and access requirements specified in the Surface Water Design Manual; or
2. In the absence of said specifications, not within five feet of a rear or interior lot line;

Chapter 18.35 – Development Standards – Landscaping

18.35.040 – Landscaping – Screen types and description:

The three types of landscaping screens are described and applied as follows:

A. Type I Landscaping Screen.

1. Type I landscaping is a “full screen” that functions as a visual barrier.
2. Type I landscaping shall minimally consist of:
 - a. A mix of primarily evergreen trees and shrubs generally interspersed throughout the landscape strip and spaced to form a continuous screen;
 - b. Between 70 and 90 percent evergreen trees;
 - c. Trees provided at the rate of one per 10 linear feet of landscape strip and spaced no more than 30 feet apart on center;
 - d. Evergreen shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and
 - e. Ground cover pursuant to KMC 18.35.090;
3. Landscape-based stormwater management facilities are permitted within Type I Landscaping Screen areas provided that the screening objectives in KMC 18.35.040.A.1 and KMC 18.35.040.A.2 are achieved.

B. Type II Landscaping Screen.

1. Type II landscaping is a “filtered screen” that functions as a visual separator.
2. Type II landscaping shall minimally consist of:

- a. A mix of evergreen and deciduous trees and shrubs generally interspersed throughout the landscape strip spaced to create a filtered screen;
- b. At least 50 percent deciduous trees and at least 30 percent evergreen trees;
- c. Trees provided at the rate of one per 20 linear feet of landscape strip and spaced no more than 30 feet apart on center;
- d. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and
- e. Ground cover pursuant to KMC 18.35.090;

3. Landscape-based stormwater management facilities are permitted within Type I Landscaping Screen areas provided that the screening objectives in KMC 18.35.040.B.1 and KMC 18.35.040.B.2 are achieved.

C. Type III Landscaping Screen.

1. Type III landscaping is a “see-through screen” that functions as a partial visual separator to soften the appearance of parking areas and building elevations.

2. Type III landscaping shall minimally consist of:

- a. A mix of evergreen and deciduous trees generally interspersed throughout the landscape strip and spaced to create a continuous canopy;
- b. At least 70 percent deciduous trees;
- c. Trees provided at the rate of one per 25 linear feet of landscape strip and spaced no more than 30 feet apart on center;
- d. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and
- e. Ground cover pursuant to KMC 18.35.090.

3. Landscape-based stormwater management facilities are permitted within Type I Landscaping Screen areas provided that the screening objectives in KMC 18.35.040.B.1 and KMC 18.35.040.B.2 are achieved.

18.35.050 – Landscaping – Street trees for single-family subdivisions:

For single-family subdivisions:

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

B. The trees shall be:

1. Located within the street right-of-way if permitted by the City;
2. No more than 20 feet from the street right-of-way line if located within a lot;
3. Maintained by the adjacent landowner unless part of a City maintenance program; and
4. A species approved by the City if located within the street right-of-way and compatible with overhead utility lines;

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

18.35.070 – Landscaping – Surface parking areas:

D. Landscaping around the perimeter of a site that is in addition to the perimeter landscaping required by KMC 18.35.045 may count toward 10 percent of the required surface parking area landscaping in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street (see subsection F of this section), if it is adjacent to the parking area;

E. Parking area landscaping shall consist of:

1. Canopy-type deciduous trees, evergreen trees, evergreen shrubs and ground covers planted in islands or strips. Native vegetation cultivars are preferred;
2. Internal parking lot landscaping shall be configured as landscape-based stormwater management feature unless infeasible.
3. Shrubs that do not exceed a maintained height of 42 inches;
4. Plantings contained in planting islands or strips having an area of at least 100 square feet and with a minimum dimension of not less than five feet;
5. Ground cover in accordance with KMC 18.35.090; and
6. At least 70 percent of trees are deciduous.

18.35.080 – Landscaping – General standards for all landscape areas:

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

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

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

1. Be augmented with a two-inch layer of organic material cultivated a minimum of six inches deep; or

2. Have an organic content of five percent or more to a depth of six inches.

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

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

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

F. Plant selection shall consider adaptability to climatic, geologic, and topographical conditions of the site. Preservation of existing vegetation is encouraged.

G. Landscape areas proposed as stormwater management facilities shall be designed in accordance with the Kenmore Stormwater Management standards.

Chapter 18.40 – Development Standards – Parking and Circulation

18.40.010 – Purpose:

The purpose of this chapter is to provide adequate parking for all uses allowed in this title; to reduce demand for parking by encouraging alternative means of transportation including public transit, rideshare and bicycles; and to increase pedestrian mobility in urban areas by:

A. Setting minimum off-street parking standards for different land uses that assure safe, convenient and adequately sized parking facilities within activity centers;

B. Providing incentives to rideshare through preferred parking arrangements;

C. Providing for parking and storage of bicycles;

D. Requiring the use of permeable surfacing unless infeasible;

E. Providing safe, direct pedestrian access from public rights-of-way to structures and between developments; and

F. Requiring uses which attract large numbers of employees or customers to provide transit stops.

18.40.030 – Computation of required off-street parking spaces:

F. Exceedance of Minimum Parking – Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE. Provision of parking in excess of the minimum parking requirements shall require the

excess parking be included in a structured parking garage, or under building and screened from the street frontage, unless the additional parking is associated with a phased, mixed use development and is interim in nature.

G. Exceedance of Minimum Parking – Zones Other than Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE. Provision of parking shall not exceed 30 percent more than the minimum parking requirements unless the excess parking spaces are included in a structured parking garage, or under building and screened from the street frontage, unless the additional parking is associated with a phased, mixed use development and is interim in nature.

H. Tree Retention – DC and DR Zones. Where an applicant proposes retention of trees in accordance with KMC 18.35.100(G) in the DC and DR zones, the city manager may reduce parking requirements by one parking space for every two significant trees that are saved in excess of the significant tree ordinance requirements.

18.40.130 – Compact car allowance requirements:

In any development containing more than 20 parking spaces, up to 50 percent of the total number of spaces may be sized to accommodate compact cars, subject to the following:

A. Each space shall be clearly identified as a compact car space by painting the word “COMPACT” in capital letters, a minimum of eight inches high, on the pavement at the base of the parking space and centered between the striping;

B. Aisle widths shall conform to the standards set for standard size cars; and

C. Apartment developments with less than 20 parking spaces may designate up to 40 percent of the required parking spaces as compact spaces.

Chapter 18.50 – Development Standards – Design Requirements for Specific Uses

18.50.150 – Mobile home parks – Standards for new parks:

D. A mobile home park shall not exceed 90% impervious surface coverage;

Chapter 18.52 – Downtown Design Standards

18.52.010 – Purpose and Intent:

The Kenmore downtown design standards are intended to implement the City’s comprehensive plan and vision for the creation of “...a community with an attractive, vital, pedestrian-oriented City center offering commercial, civic, cultural and park spaces, integrated with higher density housing...” and “...a community with clear design standards creating attractive, functional, and enduring buildings and places....”

The purpose of the downtown design standards is to create a pedestrian-oriented downtown by identifying appropriate site and development standards, including green infrastructure, for new development.

The Kenmore design standards are structured in the following manner.

18.52.100 – Pedestrian walkways:

B.4.a Special Paving. Scored concrete, stained/colored concrete, concrete pavers, paving inlays, mosaics, or other special paving material. Not all portions of the pedestrian walkway are required to be paved; however, a minimum of 60 percent of the pedestrian walkway shall provide an all-weather walking surface;

18.52.120 – Public spaces and plazas:

B.2.a Special Paving. Scored concrete, stained/colored concrete, concrete pavers, paving inlays, mosaics, or other special paving material.

18.52.160 – Building setbacks (for residential/primarily residential uses):

B.3 Palette of Front Yard Transition Elements. Use two or more of the following elements to provide front yard transitions and create usable front yard space:

- a. Steps;
- b. Low fences;
- c. Trellises;
- d. Site furnishings;
- e. Low hedges, trees, and landscaped borders;
- f. Raingardens or bioretention facilities;
- g. Patios if a low fence or trellis is included for added privacy.

18.52.180 – Parking lot screening:

B. Standards – Required.

1. Perimeter Screening. Where surface parking lots are adjacent to a public right-of-way, the parking lot shall provide a minimum 10-foot-wide planting strip between the parking lot and right(s)-of-way. Landscape requirements in Chapter 18.35 KMC also apply.
2. Screening Techniques. Year-round perimeter screening shall provide a visually impervious screen utilizing one or more of the following screening techniques:

a. Screen Walls. Low walls, opaque hedge walls, etc., shall be a minimum of three feet in height and maximum of four feet in height. Where screen walls are used, the 10-foot-wide planting strip requirement may be reduced by two feet.

b. Screen Wall Transparency. For screen walls taller than four feet in height, all elements above four feet shall be made of semitransparent materials, i.e., lattice walls, trellises, etc. Those portions of the screen wall taller than four feet in height shall be a minimum of 85 percent transparency (i.e., see-through railing, trellis, or similar treatment).

c. Evergreen Shrubs. Shrubs shall be maintained at a maximum four feet in height from the sidewalk to maintain visibility into the site for security/safety purposes. At planting, shrubs shall be a minimum two-gallon pot size or balled and burlapped equivalent.

d. Trees. A mixture of evergreen and deciduous trees and shrubs. At planting, deciduous trees shall be a minimum three-inch caliper. Evergreen trees shall be a minimum of six-foot height to the uppermost branching point at planting.

e. Wood Fences. If a wood fence is used, the fence shall have decorative detailing at the top (i.e., trellis materials) and an eight-foot-wide planting strip. The requirements of subsection (B)(2)(b) of this section are also applicable.

f. Bioretention landscaping. Bioretention landscaping may be used within the perimeter screen in conjunction with one or more of the options in subsections (B)(2)(a) through (e).

18.52.200 – Outdoor service and storage areas:

B. Standards – Required.

1. Siting of On-Site Storage Areas. All outdoor service and storage areas such as mechanical equipment, outdoor storage, trash/recycling containers, satellite dishes, accessory telecommunications devices, etc., shall be fully screened and shall not be visible from adjacent public streets or from views above from adjacent buildings. The Kenmore development standards and design requirements of KMC 18.30.250 also apply.

2. At-Grade Service Areas. At-grade storage areas such as outdoor storage and/or trash/recycling containers shall be screened from adjacent streets and public rights-of-way and from views above from adjacent buildings. Pedestrian-oriented trash receptacles along walkways and in public spaces are excepted from this requirement.

3. Screening Techniques. Service area screening shall be 100 percent sight-obscuring, year-round, utilizing one or more of the following screening techniques:

a. Fences and Walls. Fencing and wall materials shall be integrated and compatible with the design of the building (i.e., use the building's materials on fence columns);

b. Adjacent to Pedestrian Walkways. Where an outdoor storage area is adjacent to a pedestrian walkway, fences installed for screening may be used only in combination with either landscaping, vines, trellis, or similar landscaping screening technique;

c. Evergreen Hedges and Shrubs. Landscaping shall meet the City's landscaping requirements for Type I landscaping;

d. Trees. A mixture of evergreen and deciduous trees. Landscaping shall meet the City's landscaping requirements for Type I landscaping.

f. Bioretention landscaping. Bioretention landscaping may be used within the perimeter screen in conjunction with one or more of the options in subsections (B)(3)(a) through (d).