

Chapter 13.35
SURFACE WATER RUNOFF POLICY

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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. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.005).]

13.35.020 Purposes.

The council finds this chapter is necessary in order to promote the public health, safety and welfare by providing for the comprehensive management of surface 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 council also finds that the city of Kenmore 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 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. § 1251) and the state law governing water pollution control (Chapter 90.48 RCW). [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. Adoption. The King County Surface Water Design Manual, dated January 9, 2009, is hereby adopted for use in the city of Kenmore. The adoption of the King County Surface Water Design Manual or “KCSWDM” includes the adoption of the Grading Code Soil Amendment Standard (Reference #4A to the KCSWDM) and Wetland Hydrology Protection Guidelines (Reference # 5 to the KCSWDM). Future revisions of the KCSWDM shall be adopted only if approved by the Kenmore city council.

B. Modifications to Surface Water Design Manual. The City Council adopts the following modifications to the King County Water Surface Design Manual, dated January 9, 2009 in the city of Kenmore:

1. KCSWDM 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 of Kenmore development permit or approval, including, but not limited to those listed at right (or their City of Kenmore 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, OR (if subsection 1.1.1(1) not met, see conditions set forth in subsections 1.1.1(2)-(7) of Surface Water Design Manual, to determine if design review required).

The remaining text of KCSWDM 1.1.1 Projects Requiring Drainage Review, including but not limited to subsections 1.1.1(2)-(7), shall apply within the City of Kenmore.

2. KCSWDM 1.1.2.1 – Small Project Drainage Review.

The following threshold and allowance shall not apply within the City of Kenmore:

1. The “Threshold” text of KCSWDM 1.1.2.1 is revised so that the minimum threshold for projects eligible for small project drainage review shall be 500 square feet, and
2. The allowance for Small Project Drainage Review for projects in the rural residential, agricultural and forestry zones that result in no more than 4% total impervious surface and no more than 15% 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. KCSWDM 1.2.3 – Core Requirement #3: Flow Control. The following statement shall be added to the flow control requirement: infiltration of stormwater runoff shall be used wherever feasible. The “Impervious Surface Percentage Exemption” (Section 1.2.3.1) is void and shall not apply within the City of Kenmore.

The remaining text of KCSWDM 1.2.3 Core Requirement #3 Flow Control shall apply within the City of Kenmore.

4. Flow Control Applications Map.. All of the City of Kenmore is a conservation flow control area (Level two) except for project sites with identified downstream flooding problems that may require a higher level of flow control for impact mitigation.

5. Water Quality Applications Map. All of the City of Kenmore is a basic water quality treatment area unless the project’s land use triggers enhanced basic water quality treatment.

6. Landslide Hazards Drainage Areas Map. The King County Landslide Hazard Drainage Areas Map included with the KCSWDM shall be replaced with the City of Kenmore Landslide Hazard Drainage Areas Map, attached to the ordinance codified in this section. Landslide hazard drainage areas are defined as areas where surface runoff ultimately drains over the erodible soils of a landslide hazard area with slopes steeper than 15 percent.

7. KCSWDM 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 the flow control and water quality implementation sections, as follows:

Landscaping and Aesthetics Requirements

1. All exposed flow control and water quality facilities are required to 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 KCSWDM 5.3.1.1. Minor deviations from specific design criteria in the KCSWDM 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 will 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 10foot buffer of Type I landscaping on the outside of the fenced area, as defined by KMC 18.40.040(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 a significant view blockage.

C. Interpretation. The city manager, or his designee, is authorized to interpret the 2009 King County Surface Water Design Manual, as amended for use in the city of Kenmore, provide guidelines for its implementation, promulgate rules, and to resolve conflicts or inconsistencies that may arise in their interpretation or application. [Ord. 02-0132 §§ 3, 4, 5.]

13.35.030 Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter. The definitions set forth in this section shall prevail over any conflicting definition found in the King County Surface Water Design Manual:

A. “Adjustment” means a city manager approved variation in the application of the requirements of KMC 13.35.050 and the Surface Water Design Manual to a particular project in accordance with KMC 13.35.050(C). The term “adjustment” replaces “variance” which had been used in prior editions of the Surface Water Design Manual.

B. “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.

C. “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.

D. “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 within the basin.

E. “City manager” means the Kenmore city manager or his or her designee, other directors, or any duly authorized representatives of such directors.

F. “Closed depression” means an area greater than five thousand 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.

G. “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 runoff, or serves to increase, decrease and/or redirect the conveyance of surface 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.

H. “Conveyance system” means the drainage facilities and features, both natural and constructed, which collect, contain and provide for the flow of surface 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.

I. “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 or reclassification, subdivision, short subdivision, urban planned development, binding site plan, site development permit or right-of-way use permit.

J. “Drainage” means the collection, conveyance, containment or discharge, or any combination thereof, of surface and stormwater runoff.

K. “Drainage facility” means a constructed or engineered feature that collects, conveys, stores or treats surface and stormwater runoff. Drainage facilities shall include, but not be limited to, constructed or engineered streams, pipelines, channels, ditches, gutters, lakes, wetlands, closed depressions, flow control or water quality treatment facilities, erosion and sediment control facilities and other structures and appurtenances that provide for drainage.

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

M. “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.

N. “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 Kenmore Municipal Code; or provide secured warranty of materials, workmanship of improvements and design. “Financial guarantees” include 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.

O. “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.

P. “Flow control best management practice” means a method or design for dispersing, infiltrating, or otherwise reducing or preventing development-related increases in surface and stormwater runoff at, or near, the source of those increases. “Flow control best management practice” includes the methods and designs specified in the Surface Water Design Manual.

Q. “Flow control facility” means a drainage facility designed to mitigate the impacts of increased surface and stormwater runoff generated by site development pursuant to the drainage requirements in this chapter. 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.

R. “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 of this Chapter and the

KCSWDM, unless the project is subject to small project drainage review, targeted drainage review, or large drainage review, that:

1. Would result in two thousand square feet or more of new impervious surface;
2. Would result in thirty-five thousand square feet or more of new pervious surface;

or

3. Is a redevelopment project on one or more parcels where the total of new and replaced impervious surface is five thousand square feet or more and when the valuation of proposed improvements exceeds fifty percent of the assessed value of the existing site improvements, including interior improvements and excluding required mitigation and frontage improvements.

S. “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).

T. “Hydraulically connected” means connected through surface flow or water features such as wetlands or lakes.

U. “Impervious surface” means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which 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. Open uncovered flow control or water quality treatment facilities shall not be considered as impervious surfaces.

V. “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.

W. “Lake management plan” means a plan describing the lake management recommendations and requirements adopted by public rule for managing water quality within individual lake basins.

X. “Land disturbing activity” means an activity that results in a change in the existing soil cover, both vegetative and non-vegetative, 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.

Y. “Large project drainage review” means the evaluation required by KMC 13.35.040 for any proposed project that:

1. Has an urban plan development ((UPD), as defined in KMC 18.20.3100) land use designation in the city of Kenmore comprehensive plan land use map;
2. Would, at full buildout of the project site, result in 50 acres or more of new impervious surface within a drainage subbasin or a number of subbasins hydraulically connected across subbasin boundaries; or
3. Has a project site of 50 acres or more within a critical aquifer recharge area, as defined in KMC 19.40.

Z. “Licensed civil engineer” means a person registered with the state of Washington as a professional engineer in civil engineering.

AA. “Maintenance” means those usual activities taken to prevent a decline, lapse or cessation in the use of currently serviceable structures, facilities, equipment, or systems, if there is no expansion of the structure, facilities, equipment or system and there are no significant hydrologic impacts. “Maintenance” includes the repair or replacement of nonfunctional facilities or the replacement of existing structures with different types of structures, if the repair or replacement is required by one or more environmental permits or to meet current engineering standards and the functioning characteristics of the original facility or structure are not changes.

BB. “Master drainage plan” means a comprehensive drainage control plan intended to prevent significant adverse impacts to the natural and constructed drainage system, both on-site and off-site.

CC. “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, as more specifically set forth in the Surface Water Design Manual.

DD. “Natural discharge location” means the location where runoff leaves the project site under existing site conditions as defined in the Surface Water Design Manual.

EE. “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 such as the paving of existing dirt or gravel.

FF. “New pervious surface” means the conversion of native vegetated surface or other native surface to a non-native 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 non-native pervious surface that significantly increases surface and stormwater runoff (e.g., conversion of pasture land, grass land, or cultivated land to lawn, landscaping or bare soil).

GG. “Pollution-generating impervious surface” means an impervious surface considered to be a significant source of pollutants in surface and stormwater runoff. Such surfaces include those subject to vehicular use or storage of erodible or leachable materials, wastes or chemicals and which receive direct rainfall or the run-on or blow-in of rainfall. Thus, 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. Metal roofs are also considered pollution-generating impervious surface unless they are treated to prevent leaching.

HH. “Pollution-generating pervious surface” means a nonimpervious surface considered to be a significant source of pollutants in surface and stormwater runoff. “Pollution-generating pervious surfaces” include surfaces subject to the use of pesticides and fertilizers, to the use or storage of erodible or leachable materials, wastes or chemicals or to the loss of soil. Such

surfaces include, but are not limited to, the lawn and landscaped areas of residential or commercial sites, golf courses, park sports fields and standard grassed modular grid pavement.

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

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

KK. “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.

LL. “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. For purposes of this definition, “removed” includes the removal of buildings down to bare soil or the removal of Portland cement concrete (PCC) slabs and pavement or asphaltic concrete (AC) pavement. 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.

MM. “Runoff” means that portion of water originating from rainfall and other precipitation that flows over the surface of just below the surface from where it fell and is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow groundwater as well 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 surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

NN. “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.

OO. “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.

PP. “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 the authority from the city of Kenmore to carry out 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. QQ. “Small project drainage review” means the drainage review for a proposed single-family residential project that would result in 10,000 square feet or less of total impervious surface added on or after January 8, 2001.

RR. “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 in

compliance with the National Discharge Elimination System permit program under the Clean Water Act.

SS. “Subbasin” 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.

TT. “Surface and stormwater” means water originating from rainfall and other precipitation that is found on ground surfaces and in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow groundwater.

UU. “Surface Water Design Manual” means the manual and supporting documentation referenced or incorporated in the manual, describing surface and stormwater design and analysis requirements, procedures and guidance. A link to obtain an electronic version of The Surface Water Design Manual is available on the Kenmore webpage.

VV. “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 small project drainage review.

WW. “Water quality treatment facility” means a drainage facility designed to reduce pollutants once they are already contained in surface 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. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.020).]

13.35.040 Drainage review.

A. When Required. A drainage review is required when any proposed project is subject to a city of Kenmore 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;
2. Would involve 7,000 square feet or more of land disturbing activity;
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;
4. Contains or is adjacent to a flood hazard area as defined in KMC 18.55.700;
5. Is located within a critical drainage area;
6. Is a redevelopment project proposing \$100,000 or more of improvements to an existing high-use site; or
7. Is a redevelopment project on a site in which the total of new plus replaced impervious surface is 5,000 square feet or more and whose valuation of proposed improvements, including interior improvements and excluding required mitigation and frontage improvements, exceeds 50 percent of the assessed value of the existing site improvements.

B. Type of Drainage Review. 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. Small project drainage review;
2. Targeted drainage review;
3. Full drainage review; or
4. Large project drainage review. [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. Core Requirements. A proposed project required to have drainage review pursuant to KMC 13.35.040 must meet each of the following core requirements which are described in detail in the Surface Water Design Manual. Projects subject only to small project drainage review that meet the small project drainage requirements specified in the Surface Water Design Manual, including flow control best management practices, erosion and sediment control measures and drainage plan submittal requirements are deemed to comply with the following core requirements:

1. Core Requirement #1 – Discharge at the Natural Location. All surface and stormwater runoff from a project shall be discharged at the natural location so as not to be diverted onto, or away from, downstream properties. The manner in which runoff is discharged from the project site shall not create a significant adverse impact to downhill properties or drainage systems as specified in the discharge requirements of the Surface Water Design Manual.

2. Core Requirement #2 – Off-Site Analysis. The initial application submittal for proposed projects shall include an off-site analysis report that assesses potential off-site drainage and water quality impacts associated with development of the proposed site and proposes appropriate mitigations to those impacts. This initial submittal shall include, at minimum, a level one downstream analysis as described in the Surface Water Design Manual. If impacts are identified, the proposed projects shall meet any applicable problem-specific requirements as specified in the Surface Water Design Manual.

3. Core Requirement #3 – Flow Control. Proposed projects that would result 2,000 square feet or more of new impervious surface or 35,000 square feet or more of new pervious surface, or that are redevelopment projects that would result in a total of 5,000 square feet or more of new and replaced impervious surface, shall provided flow control facilities or flow control best management practices, or both, to control surface and stormwater runoff generated by new impervious surface, new pervious surface, replaced impervious surface and any existing impervious surface added on or after January 8, 2001 as specified in the Surface Water Design Manual. Flow control facilities shall meet the area-specific flow control requirements and the flow control implementation requirements applicable to the project site as specified in the Surface Water Design Manual. Flow control best management practices shall also be applied as specified in the Surface Water Design Manual. Projects subject to area-specific flow control facility requirements shall meet one of the flow control facility performance criteria listed in a. through c. of this subsection A3., as directed by the Surface Water Design Manual:

- a. Level One. Match the predeveloped site's peak discharge rates for the two-year and 10-year return periods;
 - b. Level Two. Meet Level one criteria and also match the predeveloped site's discharge durations for the predeveloped peak discharge rates between the 50 percent of the two-year peak flow through the 50-year peak flow; or
 - c. Level Three. Meet level two criteria and also match the predeveloped site's peak discharge rate for the 100-year return period.
4. Core Requirement #4 – Conveyance System. All engineered conveyance system elements for proposed projects shall be analyzed, designed and constructed to provide the minimum level of protection against overtopping, flooding, erosion and structural failure as specified by the conveyance requirements for new and existing systems and conveyance implementation requirements described in the Surface Water Design Manual.
 5. Core Requirement #5 – Erosion and Sediment Control. All proposed projects that will clear, grade, or otherwise disturb the site shall provide erosion and sediment control (ESC) that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied in accordance with KMC Title 15 as specified by the temporary ESC measures and performance criteria and implementation requirements in the Surface Water Design Manual and erosion and sediment control standards (KMC 15.25.090).
 6. Core Requirement #6 – Maintenance and Operation. Maintenance of all drainage facilities in compliance with the city of Kenmore maintenance standards is the responsibility of the applicant/property owner as described in the Surface Water Design Manual, except those facilities for which the city of Kenmore is granted an easement or covenant and assumes maintenance and operation as described in KMC 13.35.110 and 13.35.120 and the Surface Water Design Manual.
 7. Core Requirement #7 – Financial Guarantees and Liability. All drainage facilities constructed or modified for projects, except downspout infiltration and dispersion systems for single-family residential lots, must comply with the liability requirements of KMC 13.35.090 and the financial guarantee requirements of KMC Title 21.
 8. Core Requirement #8 – Water Quality. Proposed projects that would result in 5,000 square feet or more of new pollution-generating impervious surface or 35,000 square feet or more of new pollution-generating pervious surface, or that are redevelopment projects that would result in a total of 5,000 square feet or more of new and replaced pollution-generating impervious surface, shall provide water quality treatment facilities to treat polluted surface and stormwater runoff generated by new or replacement impervious surface, new pollution-generating pervious surface and any existing pollution-generating impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. However, pervious surfaces are specifically excluded if there is a good faith agreement with the King Conservation District to implement a farm management plan for agricultural uses, and pervious areas for other uses are specifically excluded if the city manager approves a landscape management plan that controls pesticides and fertilizers leaving the site. Water quality treatment facilities shall meet the area-specific water quality treatment requirements and the water quality implementation requirements applicable to the project site as specified in the Surface Water Design Manual. The facilities specified by these requirements are designed to reduce pollutant loads according to the applicable annual average performance goals listed in a. through d. of this subsection A.8 for 95 percent of the annual average runoff volume:

- a. Basic Water Quality. Remove 80 percent of the total suspended solids;
- b. Enhanced Basic Water Quality. Remove 50 percent of total zinc;
- c. Sensitive Lake Protection. Remove 50 percent of the total phosphorus;
- d. Sphagnum Bog Protection. Remove 50 percent of the total phosphorus and 40 percent of the total nitrate plus nitrite. The discharge shall maintain a pH of less than 6.5 and an alkalinity of less than 10 milligrams per liter.

B. Special Requirements. A proposed project required by KMC 13.35.040 to have drainage review shall meet any of the following special requirements which apply to the site and which are described in detail in the Surface Water Design Manual. The city manager shall verify if a proposed project is subject to and meets any of the special requirements:

1. Special Requirement #1 – Other Adopted Area-Specific Requirements. If a proposed project is in a designated critical drainage area, or is in an area included in an adopted master drainage plan, basin plan, salmon conservation plan, stormwater compliance plan, flood hazard reduction plan, lake management plan or shared facility plan, then the proposed project shall meet the applicable drainage requirements of the critical drainage area, master drainage plan, basin plan, salmon conservation plan, stormwater compliance plan, flood hazard reduction plan, lake management plan or shared facility plan.

2. Special Requirement #2 – Floodplain/Floodway Delineation. If a proposed project contains or is adjacent to a stream, lake, wetland or closed depression, or if other city of Kenmore regulations require study of flood hazards relating to the proposed project, the 100-year floodplain boundaries and floodway shall be determined and delineated on the site improvement plans and profiles and any final maps prepared for the proposed project. The flood hazard study shall be prepared for as specified in the Surface Water Design Manual.

3. Special Requirement #3 – Flood Protection Facilities. If a proposed project contains or is adjacent to a stream that has an existing flood protection facility, such as a levee, revetment or berm, or proposes to construct a new, or modify an existing flood protection facility, then the flood protection facilities shall be analyzed and designed as specified in the Surface Water Design Manual to conform with the Federal Emergency Management Administration regulations as found in 44 CFR.

4. Special Requirement #4 – Source Control. If a proposed project requires a commercial building or commercial site development permit, then water quality source controls shall be applied to prevent rainfall and runoff from coming into contact with pollutants to the maximum extent possible. Water quality source controls shall be applied in accordance with Chapter 13.45 KMC, the King County stormwater pollution control manual, and the Surface Water Design Manual. All structural source controls shall be identified on the site improvement plans and profiles or final maps prepared for the proposed project.

5. Special Requirement #5 – Oil Control. If a proposed project is a high-use site or is a redevelopment project proposing \$100,000 or more of improvements to an existing high-use site, then oil control shall be applied to all runoff from the high-use portion of the site as specified in the Surface Water Design Manual.

C. Adjustment.

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 city of Kenmore division shall require review and concurrence with that division.
 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. The applicant may appeal an adjustment decision by following the appeal procedures as specified in KMC 19.25.020. [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. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.060).]

13.35.070 Engineering plans for the purposes of drainage review.

A. Where to Submit.

1. 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 streetways, railways, pipelines, utility lines and trails. If engineering plans are returned for any reason, they shall be returned to the applicant.

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

3. 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.

4. All drainage plans not subject to review by the city manager pursuant to subsection (A)(1) of this section shall be reviewed by the department of engineering 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. Expiration. The expiration time frames as specified in the Surface Water Design Manual shall apply to all permit and approval applications.

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

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

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 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. 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 annually by the city of Kenmore risk management program, which shall name the city of Kenmore as an additional insured and protect the city of Kenmore 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 of Kenmore may initiate enforcement action pursuant to Chapter 1.20 KMC. [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 issued permits or approvals under the provisions of the title to post financial guarantees consistent with the provisions of KMC Title 21. [Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.105).]

13.35.110 Drainage facilities accepted by the city of Kenmore for maintenance.

A. 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 maintenance of privately maintained drainage facilities only if the following conditions have been met:

1. All necessary easements or dedications entitling the city to properly maintain the drainage facility have been conveyed to the city;

2. The city manager has determined that the facility is in the dedicated public road right-of-way or that 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. The city manager has declared in writing acceptance of maintenance responsibility by the city. Copies of this document will be kept on file with the city manager.

C. The city manager may terminate the assumption of maintenance responsibilities in writing after determining that continued 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 this document will 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. 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 maintenance.

A. The person or persons holding title to the property and the applicant required to construct a drainage facility shall remain responsible for the facility's continual performance, operation and maintenance 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 maintenance responsibilities by the city manager in accordance with KMC 13.35.110; or
8. Not otherwise accepted by the city for maintenance.

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 of Kenmore 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 of Kenmore may perform such work upon due notice. The titleholders are required to reimburse the city of Kenmore 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 of Kenmore.
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. 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 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 adverse 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. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.130).]

13.35.140 Administration.

A. Administration.

1. The city manager is authorized to promulgate and adopt administrative rules for the purpose of implementing and enforcing the provisions of this chapter. Adopted administrative rules are available to the public from the city manager.

2. 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.

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

C. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, 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.

D. Access. 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. 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. 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. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.192).]

13.35.180 Agency rules.

Any documents and/or manuals formally adopted by rule which implement the policies promulgated in this chapter are governed by the city of Kenmore. Any inconsistencies identified will be controlled by the city of Kenmore. [Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.196).]

13.35.190 Severability.

If any provision of this chapter or its application to any person or property is held invalid, the remainder of the chapter or the application of the provision to other persons or property shall not be affected. [Ord. 02-0132 § 1; Ord. 01-0124 § 1; Ord. 98-0016 §§ 2, 3 (KCC 9.04.200).]

13.35.200 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. 01-0124 § 1; Ord. 98-0016 § 5.]