

# **KENMORE AIR**<sup>™</sup> *harbor inc.*

6321 NE 175th Street, Kenmore, WA 98028

August 14, 2019

VIA EMAIL AND US MAIL

Lt. Abram Barker  
Harbor Patrol Chief  
1717 N Northlake Place  
Seattle, WA 98103

Re: Kenmore Air Flights on Lake Union

Dear Harbor Patrol Chief:

I write to inform you that effective July 26, 2019 and through September 2, 2019, Kenmore Air has suspended all flight operations including both scheduled and non-scheduled airline flights in and out of Lake Union on Fridays, Saturdays, and Sundays after 2:00PM (the “**No-Fly Times**”). We felt it necessary to make this decision out of concern for the safety of people using Lake Union, including recreational boats, personal watercraft users such as paddleboarders, and our passengers and pilots. We believe the seaplane takeoff and landing buoys, first installed by the City of Seattle in 2018, alone are not achieving their intended purpose during peak times and that the City of Seattle needs to take further action so that Lake Union can continue to be a working lake serving residential, recreational, and commercial users, including seaplanes.

This decision puts our airline in a difficult, uncertain, and unsustainable position and creates hardship for our passengers. It forces passengers who want to use our flight service during the No-Fly Times to travel to and from our operation in Kenmore at the north end of Lake Washington, a 30-45 minute or longer drive during the No-Fly Times. An important part of our value proposition as an airline is to enable people to travel to and from the Seattle metropolitan area, Washington’s San Juan Islands, as well as Vancouver, Victoria and other British Columbia locations in a short period of time. Many of these destinations are remote locations that are otherwise difficult to reach. Our passengers include many who live and work in downtown Seattle and the immediate surrounding neighborhoods who use our service for business and personal travel, as well as tourists staying in Seattle. Importantly, our passengers also include residents of the San Juan Islands and British Columbia who rely on our flight service to access health care and other vital services in Seattle. All of these people depend on a centralized and convenient location for flight departures and arrivals. We know our passengers will be challenged by our shift in operations and we believe we are at risk of losing a significant amount of business. While our current shift in operations is

limited to the No-Fly Times, we believe that without attention to this issue from the City of Seattle, we may in the future be forced to further curtail our operation on Lake Union during other time periods as well.

There are numerous sections of the Municipal Code of the City of Seattle (Municipal Code) that apply to the current situation. First, Section 16.12.010 of the Municipal Code of the City of Seattle authorizes the Chief of Police to (i) enforce the ordinances and regulations of the City of Seattle upon all waters within its limits, which include Lake Union and (ii) designate, indicate the location of and patrol take-off and landing areas for seaplanes. Further, Section 16.20.080 provides that all vessels or water sport craft (e.g. paddleboards) shall keep clear of aircraft landing within any area set aside by law for such purpose. In addition, Section 12A.24.025 of the Code is a criminal law that makes it unlawful to open or possess a receptacle containing alcohol, or consume alcohol, in a public place. For purposes of this law, Lake Union is a public place.

Seaplanes have been using Lake Union for over 100 years, beginning with Bill Boeing's inaugural flight on June 15, 1916. The Municipal Code of the City of Seattle Section 23.60.220 establishes Lake Union as a Conservancy Navigation (CN) Environment:

- a. Purpose. The purpose of the CN Environment is to preserve open water for navigation,
- b. Locational Criteria. Submerged lands used as a fairway for vessel navigation,
- c. Submerged lands seaward of the Outer Harbor Line, Construction Limit Line or other navigational boundary which are not specifically designated or shown on the Official Land Use Map shall be designated Conservancy Navigation.

The Kenmore Air Harbor Seaplane Base (KAH Seaplane Base) located on the southwest edge of Lake Union is Federal Aviation Administration designated public use airport LKE/W55. The KAH Seaplane Base is one of Washington's 16 commercial service airports that provide scheduled passenger service, operating an average of 80 daily arrivals and departures. It also serves as a United States Customs Service port of entry. It serves over 70,000 resident and international passengers annually. The KAH Seaplane Base contributes significantly to the state's economy and is a key participant in the Cascadia Innovation Corridor, an initiative created by Governor Jay Inslee and government official counterparts in Vancouver and Portland.

The City of Seattle has been an active steward of Lake Union for many years, including as a party to the May 3, 1989 Lake Union Seaplane Agreement, the stated purpose of which was to achieve and maintain compatibility of uses of Lake Union among residential, recreational, and business users, including seaplanes. The Lake Union Seaplane Agreement was adopted by the Seattle City Council pursuant to Resolution 28003. The Lake Union Seaplane Agreement identifies the center of Lake Union as the preferred takeoff and landing pattern for seaplanes. More recently, the South Lake Union Height and Density Final Environmental Impact Statement, issued by the City of Seattle in April 2012 in connection with the re-zoning of South Lake Union to support real estate development of that neighborhood, specifically identified a seaplane flight path. The re-zoning included height restrictions for buildings in South Lake Union to ensure continued use of Lake Union by seaplanes. Further, on May 6, 2013, the Seattle City Council adopted Resolution 31449, which states that "The Council supports the efforts by Kenmore Air to secure grant funding from the Washington State Department of Transportation for a system of buoys to signal to boaters when seaplane operations, such as landings and takeoffs, are about to occur and, if necessary, will consider further statements of support for a grant application by Kenmore Air." To honor the City's

long commitment to Lake Union as a working lake that includes seaplane services, its existing laws, including the Municipal Code sections cited above, need to be enforced.

After years of collaboration between the City of Seattle, Kenmore Air and others, the buoy system initiative identified in Seattle City Council Resolution 31449 referred to above culminated with the City of Seattle, in the spring of 2018, securing permission from the Washington State Department of Natural Resources to install a single line of five buoys in the long designated and used landing area in the center of Lake Union. Each buoy provides a statement warning people to stay at least 200 feet east or west of the buoys when yellow buoy lights are flashing, which flash during seaplane operations. But, users of Lake Union are not restricted from any area of Lake Union and our experience is that too many people ignore the warnings. During the summers of 2015 through 2017 and prior to the installation of the buoys, Kenmore Air Harbor made numerous same-day decisions to cease flight operations in and out of Lake Union due to congestion. Even after installation of the buoys, during 2018 we diverted 129 flights to our Lake Washington facility, which affected over 1,000 passengers. As state above, we now have ceased operations for the duration of the No-Fly Times, which impacts approximately 510 of our passengers each week. All of this is evidence that the current buoy system, while incrementally improving the situation, has not solved the problem it was intended to address. We appreciate the many competing demands on the Harbor Patrol staff, but believe that the level of peak summer use, and varied types of use on Lake Union, particularly by recreational boaters and paddleboarders, warrants specific attention to the Lake Union area.

We request that Harbor Patrol give this important matter the highest priority. We request that Harbor Patrol exercise the authority provided to it by the Municipal Code to police Lake Union to keep vessels and water sport craft clear of the seaplane landing buoys. We further believe that enforcement of the “open container” laws would make Harbor Patrol’s responsibility to patrol seaplane takeoff and landing areas under Municipal Code Section 16.12.010 much easier. We must find a solution to this situation.

If Harbor Patrol cannot effectively police the current buoy system full-time, we would like to discuss necessary next steps. Those steps should include at a minimum seeking additional funding to allow for a second, dedicated patrol boat during high-use times (e.g., the afternoon to evenings on the weekends), and further consideration and development of the approach initially proposed by the City of Seattle to the Department of Natural Resources when we began discussions on this topic years ago - a demarcated landing zone area of Lake Union for the exclusive use of seaplanes. There was a substantial amount of work to define and protect a seaplane flight path in the South Lake Union Height and Density Final Environmental Impact Statement. It is only logical that there be a corresponding seaplane landing area on Lake Union. We look forward to re-opening dialogue on this issue and working with you to achieve a mutually satisfactory solution.

Respectfully,



Todd Banks  
President, Kenmore Air Harbor, LLC

cc: Mayor Jenny A. Durkan, City of Seattle  
Chief Carmen Best, Seattle Police Department  
Pete Holmes, Seattle City Attorney  
Jim Holmes, City of Seattle OPCD  
Robert Shafer, Federal Aviation Administration (SEA FSDO)  
David Fleckenstein – Washington State Department of Transportation (Aviation)  
Randy Wright – Harbour Air Seaplanes, Canada