



City of Kenmore - 18120 68th Avenue NE - P.O. Box 82607 - Kenmore, WA 98028
Phone: 425-398-8900 - Fax: 425-481-3236 - E-mail: cityhall@kenmorewa.gov

City of Kenmore
City Council Regular Meeting Agenda
7:00 p.m., Monday, February 22, 2016
Kenmore City Hall, Council Chambers
18120 68th Ave. NE, Kenmore, WA 98028

If you have any questions or to confirm agenda items prior to the meeting, or if you require special accommodations, please call the City Clerk at 425-398-8900. You may also stop by City Hall at 18120 68th Avenue NE, Kenmore. Council agendas are also available on our website at www.kenmorewa.gov.

I. CALL MEETING TO ORDER

II. ROLL CALL

III. FLAG SALUTE

IV. AGENDA APPROVAL

V. PRESENTATION

- A. Recognition of Inglemoor High School Students Nathan Morgan and Corrina Lee - Selected as Presidential Scholar Candidates

VI. CITIZEN COMMENTS

- A. This is an opportunity to express your views on issues that are important to you and to the community. Please limit your comments to three (3) minutes.

VII. CONSENT AGENDA

- A. Adopt Minutes for the February 8, 2016 City Council Meeting
[DRAFT 02 08 2016 Minutes](#)
- B. The Following Checks and Electronic Payments are Approved for Payment:
Total Check Numbers 33844 Through 33898 - \$1,038,012.38
Total Payroll Electronic Deposits Dated 2/5/2016 - \$77,861.36
[Checks and Electronic Deposits](#)

VIII. BUSINESS AGENDA & PUBLIC HEARINGS

- A. Kenmore Business Incubator Update - Nancy Ousley, Assistant City Manager

[Agenda Bill](#)

[PowerPoint Presentation](#)

- B. **PUBLIC HEARING** to Receive Public Testimony Regarding Ordinance No. 16-0417, Consumption, Sale, Possession and Service of Alcoholic Beverages in City Parks and the Parks Zone - Bryan Hampson, Development Services Director

- **Adoption of Ordinance No. 16-0417, Consumption, Sale, Possession and Service of Alcoholic Beverages in City Parks and the Parks Zone**

[Agenda Bill & Attachments](#)

- C. **PUBLIC HEARING** to Receive Public Testimony Regarding Proposed Changes to the Public Agency Utility Exception (PAUE) to the City's Critical Area Regulations in KMC 18.55 - Debbie Bent, Community Development Director, and Lauri Anderson, Senior Planner

- **Discussion of Proposed Changes to the Public Agency Utility Exception (PAUE) to the City's Critical Area Regulations in KMC 18.55**

[Agenda Bill & Attachment](#)

- D. Imagine Kenmore Potential Project List Discussion and Direction - Kris Overleese, Public Works Director/City Engineer; Debbie Bent, Community Development Director; Rob Karlinsey, City Manager; Joanne Gregory, Finance & Administration Director; and Leslie Harris, Management Analyst

[Agenda Bill & Attachments](#)

[PowerPoint Presentation](#)

- E. Adoption of Ordinance 16-0416, Establishing Administrative Provisions for Business & Occupation Tax - Joanne Gregory, Finance & Administration Director

[Agenda Bill & Attachment](#)

IX. STAFF REPORT

X. COUNCILMEMBER REPORTS & COMMENTS

XI. COUNCILMEMBER INITIATIVES

XII. EXECUTIVE SESSION

Pursuant to RCW 42.30.110(1)(i), Potential Litigation

XIII. POSSIBLE ACTION RELATING TO EXECUTIVE SESSION

XIV. ADJOURNMENT

Upcoming Meetings:

Tues., February 23, 2016 7:00 p.m. St. Edward State Park Ball Field Open House

Mon., February 29, 2016 7:00 p.m. City Council Special Meeting

Tues., March 1, 2016 7:00 p.m. Planning Commission Regular Meeting

**City of Kenmore, Washington
City Council Regular Meeting
Minutes
February 8, 2016**

CALL TO ORDER – The Kenmore City Council meeting was called to order by Mayor David Baker at 7:03 p.m.

Councilmembers present: Mayor David Baker, Deputy Mayor Allan Van Ness and Councilmembers Brent Smith, Laurie Sperry, Nigel Herbig and Stacey Denuski

Councilmembers excused: Councilmember Milton Curtis

Staff present: Rob Karlinsey, City Manager; Nancy Ousley, Assistant City Manager; Kris Overleese, Public Works Director/City Engineer; Debbie Bent, Community Development Director; Bryan Hampson, Development Services Director; Zack Richardson, Capital Projects Manager; Lauri Anderson, Senior Planner; Rod Kaseguma, City Attorney; and Patty Safrin, City Clerk

FLAG SALUTE

Mayor Baker led the flag salute.

AGENDA APPROVAL

Mayor Baker stated that the Executive Session has been canceled.

It was Council consensus to approve the agenda as amended.

CITIZEN COMMENTS

Anja Helmon, 7427 NE 198th Place, Kenmore, Pastor of Northlake Lutheran Church, was present to talk about a community building activity called a Confession Board which they are going to do during February and March. The board would move around to different places every day or two.

Chris Jowell, 229 240th Street SW, Bothell, was present to thank the City for ongoing support of the ARCH Housing Trust Fund, which has assisted Imagine Housing. He is asking the City to authorize use of the Housing Trust Fund for Imagine Housing.

Doug Huxtable, 532 Lake Street SW, Kirkland, was present to say that he is a volunteer for Imagine Housing. He stated that they think ARCH is a wonderful organization and is working wonderfully. He thanked the City for our participation and ongoing support of ARCH. He distributed a flyer and a pamphlet to Council.

City Manager Karlinsey stated that Anja Helmon would like direction from Council tonight.

It was Council consensus to direct Anja Helmon to come in to City Hall and fill out a special event permit for the Confession Board community building activity.

CONSENT AGENDA

Councilmember Sperry moved to approve the consent agenda as submitted. Mayor Baker seconded the motion to Adopt the Minutes for the January 11, 2016 City Council Meeting; Approve the Following Checks for Payment: Total of Check Numbers 33756 through 33843 - \$411,219.33, and Total of Payroll Check Number 8350 - \$1,465.67; and Authorize the City Manager to Execute Contract No. 15-C1484 with KPFF Consulting Engineers for On-Call Parks and Transportation. The motion passed unanimously.

PUBLIC HEARING

Public Hearing to Receive Public Testimony Regarding Ordinance No. 15-0410, Adopting 2016 Road Standards.

Mayor Baker opened the public hearing to receive public testimony on this issue at 7:24 p.m.

As there were no citizens wishing to testify, Mayor Baker closed the public hearing at 7:24 p.m.

BUSINESS AGENDA

Adopt Ordinance No. 15-0410, City of Kenmore 2016 Road Standards - Kris Overleese, Public Works Director/City Engineer, and Zack Richardson, Capital Projects Manager, were present give a brief report on the road standards Ordinance. Manager Richardson detailed two comments that they received and stated that staff is not recommending any changes based on those comments. He reviewed a couple of minor changes that were made since this was last brought before Council. They were also available to answer any questions.

Deputy Mayor Van Ness moved to adopt Ordinance No. 15-0410, amending Kenmore Municipal Code Section 12.50 to adopt the City of Kenmore 2016 Road Standards. Councilmember Denuski seconded the motion. The motion passed 6-0.

Approve the A Regional Coalition for Housing (ARCH) 2016 Administrative Budget and Work Program - Nancy Ousley, Assistant City Manager, and Arthur Sullivan, ARCH Executive Director, were present to give a brief report. Assistant City Manager Ousley stated that the Administrative Budget has gone up about 3%, and Kenmore's contribution went up about 3%. She noted that the agenda packet contains the 2016 Work Program for ARCH and a summary of what ARCH will be doing with the member cities. She stated that ARCH will be doing a lot of work with the City on housing strategies. They were also available to answer any questions.

Councilmember Herbig moved to Approve the A Regional Coalition for Housing (ARCH) 2016 Administrative Budget and Work Program. Councilmember Smith seconded the motion. The motion passed 6-0.

Adopt Resolution No. 16-272, Authorizing Execution of Documents Necessary to Fund Housing Projects Recommended by the A Regional Coalition for Housing (ARCH) Executive Board - Nancy Ousley, Assistant City Manager, and Arthur Sullivan, ARCH

Executive Director, were present to give a brief report on the Resolution. Assistant City Manager Ousley briefly reviewed the use of Kenmore's Housing Trust Fund dollars. Executive Director Sullivan summarized the recommended projects, both with Imagine Housing. They were also available to answer any questions.

Councilmember Smith moved to Adopt Resolution No. 16-272, Authorizing Execution of Documents Necessary to Fund Housing Projects Recommended by the A Regional Coalition for Housing (ARCH) Executive Board. Councilmember Herbig seconded the motion. The motion passed 6-0.

Approve Agreements Authorizing the Transfer of the Twin Springs Property from King County to the City, Contract Nos. 16-C1508 and 16-C1509 - Debbie Bent, Director of Community Development, and Michael Popiwny, King County, were present to request authorization to execute agreements leading to the Brightwater property transfer. Director Bent stated that the property will be a great asset to the City as a park and open space. She detailed the boundary line adjustment necessary to create the property and briefly described the property. She reviewed the two contracts and the key conditions necessary for the transfer from King County, including details of responsibilities for the property by King County and the City. The next step is for staff to bring some recommendations back to Council as to how that park could be opened to the public. City Manager Karlinsey stated that he would like Director Bent and Public Works Operations Manager Jennifer Gordon to present information to Council on what is involved in opening a new park in the City. They were also available to answer any questions.

Deputy Mayor Van Ness moved to Approve Agreements Authorizing the Transfer of the Twin Springs Property from King County to the City, Contract Nos. 16-C1508 and 16-C1509. Mayor Baker seconded the motion. The motion passed 6-0.

2016 Docket Work Program for the Planning Commission - Debbie Bent, Community Development Director, and Lauri Anderson, Senior Planner, were present to give a brief report. Director Bent introduced the topic. Senior Planner Anderson detailed the 2016 Work Program. She stated that private applicants have the opportunity each year to request changes either to the Comprehensive Plan or to development regulations, but no applications were submitted this year. The three recommended programs are looking at wireless communication facilities; the housing strategy plan (in conjunction with ARCH); and review of the neighborhood business zone, a very small zone comprising two areas in Kenmore, which would involve Comprehensive Plan amendments. There are four projects that would be brought directly to Council, rather than going through the Planning Commission, which are revising documents to use the list of standardized land uses in every district; revisiting the public agency and utility section of the critical area rules; amendments addressing medical marijuana; and looking at apartments in single-family zones. They were also available to answer any questions.

Councilmember Denuski moved to Approve the 2016 Docket Work Program for the Planning Commission. Councilmember Herbig seconded the motion. The motion passed 6-0.

Discussion of a Potential Ordinance Regarding Consumption, Sale, Possession and Service of Alcoholic Beverages in City Parks and the Parks Zone - Bryan Hampson, Development Services Director, stated that we currently have inconsistencies between the criminal code and the City code regarding consumption, sale, and service of alcoholic beverages in City parks and the Parks Zone, and that we have sent mixed messages to local businesses. He recommends that

the Kenmore Municipal Code (KMC) be revised, allowing alcoholic beverages to be served at City parks with a special events permit, and WA State Liquor Control Board approval. He detailed the changes to the KMC that are proposed. He stated that the State Park is part of the Parks Zone. He was available to answer any questions.

City Manager Karlinsey stated that staff would like Council's direction on what to bring back in the ordinance for adoption, especially dealing with the City's smaller parks. He stated that the Town Green would be an ongoing permitted use. Director Hampson also distributed a classification of parks from the PROS Plan. He suggested that one way of looking at the parks might be according to their classification, such as neighborhood parks and waterfront parks.

Community Development Director Debbie Bent stated that it might not be possible to classify all the parks according to the PROS Plan, especially St. Edward State Park. She recommended naming the individual parks as a more clear way to write the ordinance.

It was Council consensus to exclude alcohol from Linwood, Moorlands, Northshore Summit and Wallace Swamp Creek parks.

STAFF REPORT

City Manager Karlinsey stated that we continue to see the effects of the For the Love of Kenmore event last year. Kenmore Air plans to do a seaplane fly-in on Saturday, May 14th with vintage planes, food trucks and free seaplane rides. Kent Sturgis and Dennis Mendrey, who won the mini grant at the For the Love of Kenmore event, have an signed letter of agreement with CalPortland to decorate their silos with decals.

CITY COUNCILMEMBER REPORTS & COMMENTS

Councilmember Denuski stated that she and Mayor Baker have been helping the Kenmore family that has immigration issues.

Councilmember Sperry stated that she walked around Twin Springs and thinks it will be a great open space, although she was surprised at how wet it was.

Mayor Baker reported on his activities with government representatives, including efforts to get signatures in support of a boat house in Kenmore. He stated that he heard Peter Kageyama speak in Bellevue, and noted that Kageyama said he would love to come check in with us next time he is in the area.

ADJOURNMENT

Mayor Baker adjourned the regular meeting at 8:45 p.m.

David Baker, Mayor

ATTEST:

Patty Safrin, City Clerk

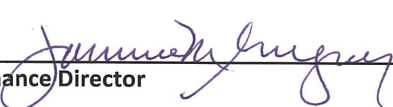
Voucher Certification and Approval

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Kenmore and that I am authorized to authenticate and certify to said claim.

The following checks and electronic payments are approved for payment:

Total Check numbers: 33844 through 33898 \$ 1,038,012.38

Total Payroll electronic deposits dated: 2/5/2016 \$ 77,861.36

 _____ City Manager	<u>2-12-16</u> _____ Date
 _____ Finance Director	<u>2/11/16</u> _____ Date

Check #	Vendor Name	Description	Check Amount
33844	NATIONWIDE FINANCIAL 401a	Social Security Replacement Plan	12,613.05
33845	NATIONWIDE RETIREMENT SOLUTIONS 457	Deferred Comp Payroll Deduction	445.00
33846	ICMA RETIREMENT TRUST 457 - 304745	Deferred Comp Payroll Deduction	2,953.81
33847	DRS 457	Deferred Comp Payroll Deduction	1,860.00
33848	CITY OF KENMORE FS	Flexible Spending Medical Plans	196.38
33849	BANK OF AMERICA 941	Payroll Taxes	15,394.72
33850	DEPARTMENT OF RETIREMENT SYSTEMS	WA State Retirement	18,268.77
33851	UNITED WAY OF KING COUNTY	Employee Charitable Contributions	221.00
33852	STATE OF FLORIDA DISBURSEMENT UNIT	Payroll Deduction	275.00
33853	HSA BANK	Employee Health Savings Account Contribution	80.76
33854	AMERICAN PLANNING ASSOCIATION	Membership - Andrew Bauer & Lauri Anderson	1,048.00
33855	BAKER, DAVID	Mileage Reimbursement	245.70
33856	BELLEVUE COLLEGE	Training Class - Sharepoint	219.12
33857	CITY OF BELLEVUE	Qtr 4 2015 MBP Surcharge	3,662.96
33858	DAILY JOURNAL OF COMMERCE	Legal Ad/RFQ Aquatic Weed Control	70.20
33859	INSLEE, BEST, DOEZIE & RYDER, P.S.	December Legal Services	18,436.71
33860	KING COUNTY FINANCE W.L.R.D.	3rd Trimester 2015 WRIA8 Portion per ILA	2,338.67
33861	KING COUNTY FINANCE	2015 General Election Voter's Pamphlet	619.29
33862	LIGHTHOUSE CONSULTING INC	Jan. Web Hosting/Protection/Backup/IT Svcs	3,806.33
33863	OFFICE DEPOT	Office & Breakroom Supplies	510.30
33864	SEATTLE TIMES	Legal Ads & Public Hearing Notices	1,700.11
33865	UPS STORE	January Photocopying Charges	23.86
33866	VAN NESS, ALLAN	January Mileage & Parking Reimbursement	160.72
33867	KONICA MINOLTA BUSINESS SOLUTIONS	January Incubator Bldg. Photocopier Lease	209.32
33868	SOUND LAW CENTER	Hearing Examiner Svc-Gish Business Lic. Appeal	3,692.50
33869	QUALITY BUSINESS SYSTEMS INC.	1st & 2nd Floor Xerox Copies for January	899.65
33870	NORTHSHORE ROTARY CLUB	4th Qtr 2015 Dues & Member Meals	220.00

33871	VAUGHAN, KENT	Reimbursement/ SR522 Construction Website	198.00
33872	A+ CONFERENCING	Conference Calls	33.03
33873	SHRED-IT USA LLC	2/3/16 Shredding Services	56.41
33874	COMCAST	Incubator Building Internet & Cable 1/30-2/29	161.86
33875	KING COUNTY MUNICIPAL CLERKS ASSOC	Dues for Patty Safrin	25.00
33876	GORDON THOMAS HONEYWELL	January Government Relations Consulting	3,763.69
33877	SARAH ROBERTS	January Prosecution Services	10,623.62
33878	AM TEST, INC	Swamp Creek TMDL Samples	250.00
33879	INDEPENDENT STATIONERS	Office Supplies	120.71
33880	WELLS FARGO FINANCIAL	1/21-2/20 1st & 2nd Floor Copier Leases	1,041.25
33881	HOPKINS, CRAIG	PD Volunteer Mileage/Replacement Check	62.10
33882	DEVRIES, DENIS	Jan. Police Volunteer Mileage Reimbursement	36.18
33883	NRC ENVIRONMENTAL SERVICES, INC.	Vactor Services	2,130.61
33884	VERIZON WIRELESS	1/27-2/26 Cell Phones & I-Pads	1,041.39
33885	GREATER BOTHELL CHAMBER OF COMMERCE	Kenmore Business Alliance December Hours	200.00
33886	GREATER BOTHELL CHAMBER OF COMMERCE	Bothell Chamber Membership Dues	1,500.00
33887	RICHARDSON, ZACK	Reimburse for Professional Engineering License	116.00
33888	WAGE WORKS	Flexible Spending Account Administration	50.00
33889	SCORE	December Outside Health Services	29,304.50
33890	HANSEN, COREY	January Incubator Consulting Service	3,425.00
33891	GALLATIN PUBLIC AFFAIRS	January Media Relations/Marketing	3,550.19
33892	MARSHBANK CONSTRUCTION	SR522 West A Construction through 1/25/16	729,993.06
33893	SKYWARD CONSTRUCTION	January Town Green 15-C1462 Construction	147,917.05
33894	JD PLUMBING & FIRE PROTECTION INC.	Permit Fee Miscalculated/Refund Overage	214.03
33895	APPLIED CONCEPTS, INC.	Police Radar	2,734.76
33896	CITY OF TACOMA	Landmark Preservation Commission Training	40.00
33897	IAP2 PUGET SOUND CHAPTER	Foundations Certificate Training/Leslie Harris	1,550.00
33898	SOFTWAREONE, INC.	Office 365 Subscription	7,702.01
2/5/2016	PAYROLL	Direct Deposit	77,861.36
			<u><u>1,115,873.74</u></u>

2015	PRIOR VENDOR ACTIVITY	TOTAL	FOR 2016
	A+ CONFERENCING		121.77
	ACTION ENTERTAINMENT		395.00
	ACTIVE SHOOTER TRAINING LLC		575.00
	ADMAN, STACI		1,916.25
	AFLAC		348.94
	ALCALDE & FAY		5,023.37
	ALTA MAXINE MELVIN		14,674.00
	AM TEST, INC		125.00
	AMERICAN GENERAL LIFE GPO-400S		432.17
	AMERICAN PUBLIC WORKS ASSOCIATION		1,225.00
	AMERICAN SOCIETY OF CIVIL ENGINEERS		225.00
	ASSOCIATION OF WA CITIES		14,909.00
	AV CAPTURE ALL		4,718.57
	AWC EMPLOYEE BENEFITS		49,336.81
	BAKER, DAVID		85.86
	BANK OF AMERICA 941		15,478.55
	BANNER BANK BAKER		172.27
	BANNER BANK BH		112.50
	BANNER BANK KENMORE		1,116.75
	BANNER BANK NO		155.05
	BANNER BANK PS		579.81
	BANNER BANK RK		129.47
	BANNER BANK VAN NESS		595.00
	BARTLETT TREE EXPERTS		394.20
	CASCADE PEST CONTROL		142.35
	CEMEX		82.02
	CITY OF KENMORE FS		196.38
	CITY OF LAKE FOREST PARK		97,986.45
	CITY OF SHORELINE		804.32
	COASTWIDE LABORATORIES		160.77
	COLUMBIA RIDGE LANDFILL		1,240.16
	COMCAST		387.50
	CULLEY, AMBERLY		1,916.25
	CURTIS, DR. MILTON		60.16
	D.R. HORTON		7,500.00
	DEPARTMENT OF ECOLOGY		13,444.11
	DEPARTMENT OF LABOR AND INDUSTRIES		2,100.74
	DEPARTMENT OF RETIREMENT SYSTEMS		18,240.84
	DEVRIES, DENIS		27.03
	DRS 457		1,860.00
	ECONOMIC DEV COUNCIL OF SEATTLE/KC		5,000.00
	EMPLOYMENT SECURITY DEPT		6,874.73
	FRONTIER		1,034.17
	FRUHLING SAND & TOPSOIL		60.00
	GOVDELIVERY, INC.		11,025.00
	GRAINGER		193.68
	HERBIG, NIGEL		61.56

HONEY BUCKET	218.35
HOPKINS, CRAIG	98.82
HSA BANK	80.76
ICMA RETIREMENT TRUST 457 - 304745	2,953.81
INTEGRA TELECOM	910.29
KBA INC.	11,681.89
KENMORE COMMERCIAL LLC	3,281.00
KENMORE HERITAGE SOCIETY	50.00
KIMBERLY LANE 9, LLC	1,145.82
KING COUNTY	200.00
KING COUNTY FINANCE	44,936.28
KING COUNTY FLEET ADMIN	235.00
KING COUNTY SHERIFF	20,775.73
KINGS HEATING	28.84
KONICA MINOLTA BUSINESS SOLUTIONS	880.60
KORTE, BRENT	27.61
LINCOLN NATIONAL LIFE INSURANCE	900.39
MR. T'S TROPHIES	59.95
NATIONAL LIFE OF VERMONT	123.17
NATIONWIDE FINANCIAL 401a	12,595.08
NATIONWIDE RETIREMENT SOLUTIONS 457	445.00
NORTHSHORE FIRE DEPT	2,428.00
NORTHSHORE UTILITY DIST	18,251.00
NORTHWEST LANDSCAPE SERVICES	1,199.81
NORTHWESTERN COLLECTION SERVICE INC	690.00
OGDEN, MURPHY, WALLACE	2,112.50
PAMPLIN MEDIA GROUP	190.00
PEOPLES STORAGE	201.00
PHSI PURE WATER FINANCE	402.49
PROTECTION TECHNOLOGIES, INC	814.89
PUGET SOUND CLEAN AIR AGENCY	17,411.00
PUGET SOUND ENERGY	4,512.30
PUGET SOUND FINANCE OFFICERS ASSOC	50.00
SEATTLE TIMES	134.98
SELECT AIR SERVICES DBA GREENWOOD	32.14
SESAC	378.00
SHRED-IT USA LLC	52.97
SKYWARD CONSTRUCTION	24,068.50
SMITH, BRENT	63.72
SNOHOMISH COUNTY	3,280.00
SOUND CITIES ASSOC	13,018.25
SPERRY, LAURIE	64.80
STATE AUDITOR'S OFFICE	575.90
STATE OF FLORIDA DISBURSEMENT UNIT	275.00
SUNGARD PUBLIC SECTOR INC.	12,921.00
TOPIA TECHNOLOGY/ BIS	200.00
TOTAL LANDSCAPE CORP	5,002.61
UNITED WAY OF KING COUNTY	442.00
US POSTAL SERVICE (HASLER)	2,443.05

VAN NESS, ALLAN	182.20
VERIZON WIRELESS	1,041.31
VOLGISTICS, INC	540.00
WA ASSOC OF BUILDING OFFICIALS	1,575.00
WA CITIES INSURANCE AUTHORITY	229,194.00
WA FINANCE OFFICERS ASSOCIATION	150.00
WA STATE DEPT OF TRANSPORTATION	1,789.75
WASHINGTON CITY/COUNTY MGMT ASSOC	315.00
WASHINGTON STATE DEPT OF REVENUE	2,667.11
WHELHAM, STEPHANIE	250.00
	<u>\$ 733,792.23</u>

Subject/Topic:

For Council Meeting Agenda of: 22 February 2016

Prepared by: Nancy Ousley, Assistant City Manager

Approved by Department Head:

Approved by City Attorney:

Approved by Finance Director:

Approved by City Manager:

Initial & Date

NIKS 12 Feb 2016

Aug 21/2/16

Rek

Exhibits/Attachments:

Amount Budgeted \$226,200 for 2015-2016

Appropriation Required \$0

The Assistant City Manager will be joined by Program Consultant Corey Hansen and Incubator client companies in providing an update to the City Council on the Kenmore Business Incubator. The most recent update to Council was in July, 2015.

The Kenmore Business Incubator has been in operation since February, 2013 and to date has served 14 businesses with in-house and Virtual services. The Virtual Incubator program was added in 2014 and is available for businesses who do not need dedicated work space, but can benefit from business development mentoring provided by our Program Consultant.

With added client companies, program fees are offsetting a larger percentage of facility lease costs.

Continue to Implement the Economic Development Strategy: Support Existing Businesses and Pursue Opportunities to Expand Employment

Kenmore Business Incubator Update

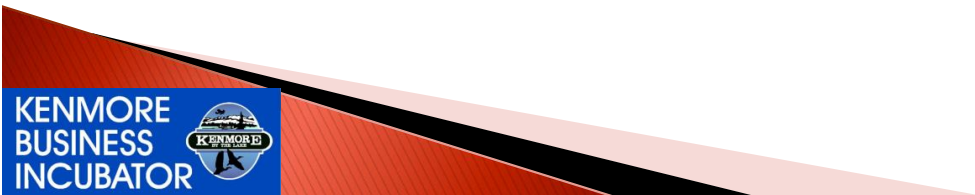
February 2016

**KENMORE
BUSINESS
INCUBATOR**



What's New

- ▶ Six Companies at the Incubator
- ▶ Four companies headed by Kenmore residents
- ▶ Virtual Incubator Client Growth
- ▶ 5x Entrepreneur Series
- ▶ Advisory Group Continues
- ▶ Neighboring Investment



Metrics

	2013				2014				2015			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Total Businesses	1	2	3	3	3	3	4	6	7	11	13	15
Employees at KBI current*	5	10	13	15	15	15	12	13	8	11	12	16
% of base rent offset by fees**	40%	56%	71%	85%	71%	71%	71%	82%	37%	71%	76%	103%

*In-house companies only

**All program fees

Base Rent 2013-2015: \$2550 per month

Budget

2013 - 2014

- ▶ Budget: \$238,100
- ▶ Expenditures: \$214,372
- ▶ Program Revenue: \$36,892
- ▶ Net Expenditures: \$177,480

2015-2016

- ▶ Budget: \$226,200
- ▶ 2015 Expenditures: \$99,443
- ▶ 2015 Program Revenue : \$17,320
- ▶ 2015 Net Expenditures: \$82,123

In-House Companies



"Turning Lifestyles into Assets"



Virtual Incubator Companies



Endeavor Family Counseling



martiansystems

All are Kenmore Businesses

Companies Who Have Graduated/Moved on

CONNECTED
LTD

Feb 2013–Dec 2014



August 2014–January 2015



September 2013–July 2014



LIFESTYLES EXPRESS

HAVE IT ALL

January – June 2015





**City Council Business Agenda Item
City of Kenmore, WA**

Subject/Topic: Public Hearing, Deliberation and Action on Ordinance No. 16-0417 Consumption, Sale, Possession and Service of Alcoholic Beverages in City Parks and in the Parks Zone. Proposed Council Action/Motion: Adopt Ordinance No. 16-0417 Relating to the Consumption, Sale, Possession and Service of Alcoholic Beverages in City Parks and in the Parks Zone, and Amending Sections 9.40.010, 9.40.590, 9.40.600 and 18.28.020 of the Kenmore Municipal Code	For Council Meeting Agenda of: <u>February 22, 2016</u> Department: <u>Development Services</u> Prepared by: <u>Bryan Hampson</u> <table style="width: 100%;"> <tr> <td style="width: 70%;"></td> <td style="width: 30%; text-align: center;"><u>Initial & Date</u></td> </tr> <tr> <td>Approved by Department Head:</td> <td style="text-align: center;"><u>BA 2/11/16</u></td> </tr> <tr> <td>Approved by City Attorney:</td> <td style="text-align: center;"><u>[Signature]</u></td> </tr> <tr> <td>Approved by Finance Director:</td> <td style="text-align: center;"><u>[Signature]</u></td> </tr> <tr> <td>Approved by City Manager:</td> <td style="text-align: center;"><u>[Signature]</u></td> </tr> </table> Attachments: #1 Ordinance No. 16-0417—Relating to Consumption, Sale, Possession and Service of Alcoholic Beverages in City Parks and the Parks Zone #2 2014 Zoning Map #3 Memo from Chief Sether and Jennifer Gordon		<u>Initial & Date</u>	Approved by Department Head:	<u>BA 2/11/16</u>	Approved by City Attorney:	<u>[Signature]</u>	Approved by Finance Director:	<u>[Signature]</u>	Approved by City Manager:	<u>[Signature]</u>
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Approved by Finance Director:	<u>[Signature]</u>										
Approved by City Manager:	<u>[Signature]</u>										
Expenditure Required \$NA	Amount Budgeted \$NA	Appropriation Required \$NA									
<u>INFORMATION/BACKGROUND:</u> KMC 9.40.590 (parks rules) prohibits the consumption, sale, possession and service of alcoholic beverages in City parks, recreation areas and “associated marine areas,” and KMC 18.28.020 Table A (zoning code) relates to service of alcoholic beverages in the City’s Park Zone. When applied to several situations and circumstances, these sections are inconsistent. In addition, KMC 9.40.590 contains ambiguities, results in an unintended consequence, and includes an outdated (or never) used term. The proposed ordinance corrects these issues and problems, through changes to KMC 18.28.020 Table A and KMC 9.40.590, as well as to KMC 9.40.010 and 9.40.600. <u>Summary of Current KMC 9.40.590 and 18.28.020 Table A</u> KMC 9.40.590: • Prohibits selling, opening or possessing alcoholic beverages in an open container, or consuming any alcoholic beverage, in a City of Kenmore park, recreation area or associated marine area.											

- However, if the City Manager approves, and if the alcoholic beverage activity occurs at the “Kenmore fairgrounds,” a group may sell, open, possess or consume alcoholic beverages by obtaining a special use permit from the City and meeting the requirements of the Washington State Liquor Control Board under Title 66 RCW.
 - There is no “Kenmore fairgrounds.” Therefore, a group cannot obtain permission to engage in these alcoholic beverage activities anywhere in a City park, recreation area or associated marine area.
- Consequently, all persons are prohibited from selling, opening, possessing or consuming alcoholic beverages in a City of Kenmore park, recreation area or associated marine area—no exceptions .

KMC 18.28.020 Table A:

- In a Park zone, service of alcoholic beverages is prohibited, except by temporary use permit per Chapter 18.100 KMC or temporary use of facilities approval per Chapter 9.40 KMC.
 - Based on the list of permitted uses in a park zone, which include boat launch, indoor recreational facilities, outdoor recreational facilities, cultural facilities and mobile food vendor (accessory), among other things, the City Council apparently intended to prohibit the “service” of alcoholic beverages as a permanent, ongoing activity in connection with a permitted use.
 - For example, the owner of an outdoor recreational facility cannot operate a bar as part of the facility.
 - However, if the owner of the permitted use obtains a temporary use permit (per Chapter 18.100 KMC) or a temporary usage approval (Chapter 9.40 KMC) for City facilities, the owner may serve alcoholic beverages on a temporary basis.

Reading of KMC 9.40.590 and KMC 18.28.020 Table A together

- The consuming of alcoholic beverages in a City park, recreation area or associated marine area is clearly prohibited.
- KMC 9.40.590 is ambiguous as to whether the possession of alcoholic beverages in unopened containers is prohibited.
- KMC 9.40.590 is ambiguous as to whether the selling of alcoholic beverages in open containers (cups) is prohibited.
- KMC 9.40.590 is ambiguous as to whether the term “recreation area” is broader in scope than “City of Kenmore park.”
 - Thus, KMC 9.40.590 is ambiguous as to whether its alcoholic beverages prohibitions are applicable to state or county parks.
- If the alcoholic beverage prohibitions of KMC 9.40.590 are not applicable in state or county parks, then a person can consume alcoholic beverages in those parks, because KMC 9.40.590 does not apply, but a person cannot serve alcoholic beverages in those parks because the prohibition of KMC 18.28.020 Table A does apply.
 - This is an illogical inconsistency.
- If the alcoholic beverage prohibitions of KMC 9.40.590 are applicable in state or county parks, then a person cannot consume or possess alcoholic beverages in those parks, because KMC 9.40.590 applies, but a person can serve alcoholic beverages to that person (assuming a temporary use permit has been issued under KMC 18.28.020 Table A).
 - This is an illogical inconsistency.
- A group cannot obtain a special use permit for the sale and consumption of alcoholic beverages per KMC 9.40.590, because there is not “City of Kenmore fairgrounds.”

On February 8, 2016 at a City Council meeting this topic was introduced and discussed with Council. The direction and outcome from this meeting was to exclude Linwood Park, Moorlands Park, Northshore Summit Park, and Wallace Swamp Creek Park from being allowed to obtain a special event permit for the sale, opening, possessing or consumption of alcoholic beverages.

Proposed Changes to KMC 9.40.010, 9.40.590, 9.40.600 and 18.28.020 Table A; these recommendations would allow alcohol to be served at a City park (except Linwood Park, Moorlands Park, Northshore Summit Park, and Wallace Swamp Creek Park) through a special events permit or permitted use and approval of the Washington State Liquor and Cannabis Control Board:

- The inconsistencies and issues discussed above are addressed through the following amendments to the following Code sections (as shown on the Attached proposed Ordinance):
 - 9.40.590:
 - Define “City park” in the Code (new KMC 9.40.010(H).
 - Delete “recreation area.”
 - Re-word the prohibited acts to clearly distinguish between selling, opening a container, possessing an open container, and consuming.
 - Delete the obsolete (or never correct) “fairgrounds” term.
 - Delete the City Manager discretion; replace it with permits or licenses under State law or City Code.
 - 9.40.600:
 - Define “City park” in the Code.
 - Delete “recreation area.”
 - 9.40.010:
 - Define “City park.”
 - Replace “parks and cultural resources department” with “the City department or outside agency assigned by the city manager to administer a portion of the City code.”
 - Replace “parks division” with “Department.”
 - 18.28.020 Table A:
 - In the “prohibited column,” retain “marijuana business” but delete all remaining language in the column.

FISCAL CONSIDERATION: None

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 16-0417**

**AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON,
RELATING TO THE CONSUMPTION, SALE, POSSESSION AND
SERVICE OF ALCOHOLIC BEVERAGES IN CITY PARKS AND IN THE
PARKS ZONE, AND AMENDING SECTIONS 9.40.010, 9.40.590, 9.40.600
AND 18.28.020 OF THE KENMORE MUNICIPAL CODE.**

WHEREAS, the City Council desires to clarify and modify the rules and regulations relating to the consumption, sale, possession and service of alcoholic beverages in City parks and the Parks Zone of the City;

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

Section 1. Section 9.40.590, Alcoholic Beverages, of the Kenmore Municipal Code, is amended as follows:

No person shall in a City park or associated marine area: sell an alcoholic beverage; open a bottle, can or other receptacle containing an alcoholic beverage;; possess an alcoholic beverage ~~Selling, opening or possessing~~ alcoholic beverages in an open container;; or consume an consuming any alcoholic beverage ~~alcoholic beverage~~, unless such sale, opening, possession or in a City of Kenmore park, recreation area or associated marine area is prohibited except in the following designated areas subject to approval by the manager and under the following conditions: the sale and consumption alcoholic beverages is authorized in connection with a permissible for special use, special event or other activity for which all applicable permits or licenses, including but not limited to permit groups at the City of Kenmore fairgrounds, if the activities conform to the requirements of those required by the Washington State Liquor and Cannabis Control Board under Chapter 66 RCW Title 66 or this Code, have been obtained but in no case shall such sale, opening, possession or consumption be authorized in connection with a use, special event or other activity within Linwood Park, Moorlands Park, Northshore Summit Park, or Wallace Swamp Creek Park.

Section 2. Section 9.40.600, Intoxication, of the Kenmore Municipal Code, is amended as follows:

Being or remaining in, or loitering about in, any City park ~~City park, recreation area,~~ or associated marine area while in a state of intoxication is prohibited.

Section 3. Section 9.40.010, Definitions, of the Kenmore Municipal Code is amended as follows:

A. "Aircraft" means any machine or device designed to travel through the air including but not limited to airplanes, helicopters and balloons;

B. "Alcoholic beverages" or "liquor" includes the four varieties of liquor defined as alcohol, spirits, wine and beer, all fermented, spirituous, vinous, or malt liquor, and all other intoxicating beverages, and every liquor, solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, all drinks or drinkable liquids and all preparations or mixtures capable of human consumption. Any liquor, semisolid, solid or other substance which contains more than one percent alcohol by weight shall be conclusively deemed to be intoxicating;

C. "Associated marine area" means any water area within 100 feet of any "City of Kenmore trail, open space, park area" or "marine facility" such as a dock, pier, float, buoy, log boom, or other object which is part of a "City of Kenmore park area"; provided, that such area does not include private property;

D. "Boat" means any contrivance up to 65 feet in length overall, used or capable of being used as a means of transportation on water;

E. "Camper" means a motorized vehicle containing sleeping and/or housekeeping accommodations, and shall include a pickup truck with camper, a van-type body, a converted bus, or any similar type vehicle;

F. "Camping" means erecting a tent or shelter or arranging bedding or both for the purpose of or in such a way as will permit remaining overnight, or parking a trailer, camper, or other vehicle for the purpose of remaining overnight;

G. "Campsite" means designated camping sites which are designated for the use of tent campers, and which have no water and/or electrical facilities available for hookup to a trailer or a camper;

H. "City park" means land designated as a "park" in the City Park, Recreation and Open Space Plan section of the Comprehensive Plan or any City ordinance;

HI. "Discrimination" means any action or failure to act, whether by single act or part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, color, religion, national origin, age, sex, marital status, parental status, sexual orientation, the presence of any sensory, mental or physical handicap, or the use of an animal guide by a blind or deaf or otherwise physically or mentally challenged person;

IJ. "Department" means any division the City department or outside agency assigned by the city manager to administer a portion of the City code of the City of Kenmore parks and cultural resources department;

JK. "Facility" or "facilities" means any building, structure, or park area operated by the ~~City of Kenmore parks and cultural resources department~~ department;

~~KL.~~ “Facility manager” means a duly appointed ~~City of Kenmore parks and cultural resources department~~ department employee;

~~LM.~~ “City of Kenmore open space, trail or park area” means any area under the ownership, management, or control of the City of Kenmore or the department ~~parks and cultural resources department~~;

~~MN.~~ “Director” means director of the ~~parks division of the~~ department;

~~NO.~~ “Motor vehicle” means any self-propelled device capable of being moved upon a road, and in, upon, or by which any persons or property may be transported or drawn, and shall include, but not be limited to, automobiles, trucks, motorcycles, motor scooters, jeeps or similar type four-wheel drive vehicles, and snowmobiles, whether or not they can be legally operated upon the public highways;

~~OP.~~ “Person” means all persons, groups, firms, partnerships, corporations, clubs, and all associations or combination of persons whenever acting for themselves or as an agent, servant, or employee;

~~PQ.~~ “Rocket” means any device containing a combustible substance which when ignited propels the device forward;

~~QR.~~ “Trail” means any path, track, or right-of-way designed for use by pedestrians, bicycles, equestrians, or other nonmotorized modes of transportation;

~~RS.~~ “Trailer” means a towed vehicle which contains sleeping or housekeeping accommodations;

~~ST.~~ “Trailer site” means a designated camping site which has water and/or electrical facilities available for hookup, and which is designed for the use of persons with trailers or campers.

Section 4. Table A of Section 18.28.020, Park zones – Use allowances, of the Kenmore Municipal Code is amended as follows:

Table A. Parks Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED (OR EXCLUDED IN DEFINITIONS)
Arboretum Boat Launch Caretaker Residence, Accessory ³ City Government Facilities and Offices Cultural Facilities Dock Dwelling Unit, Single Detached ¹ Indoor Recreational Facilities: Excluding Sports Clubs Mobile Food Vendor, Accessory ² Open Space Outdoor Recreational Facilities Parks Private Stormwater Management Facility Trails Utility Facility Wildlife Shelter		Service of alcoholic beverages, except by temporary use permit per Chapter 18.100 KMC or except by temporary usage of facilities in accordance with Chapter 9.40 KMC for City facilities <i>Marijuana Business</i>

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

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 22nd DAY OF February, 2016.

CITY OF KENMORE

David Baker, Mayor

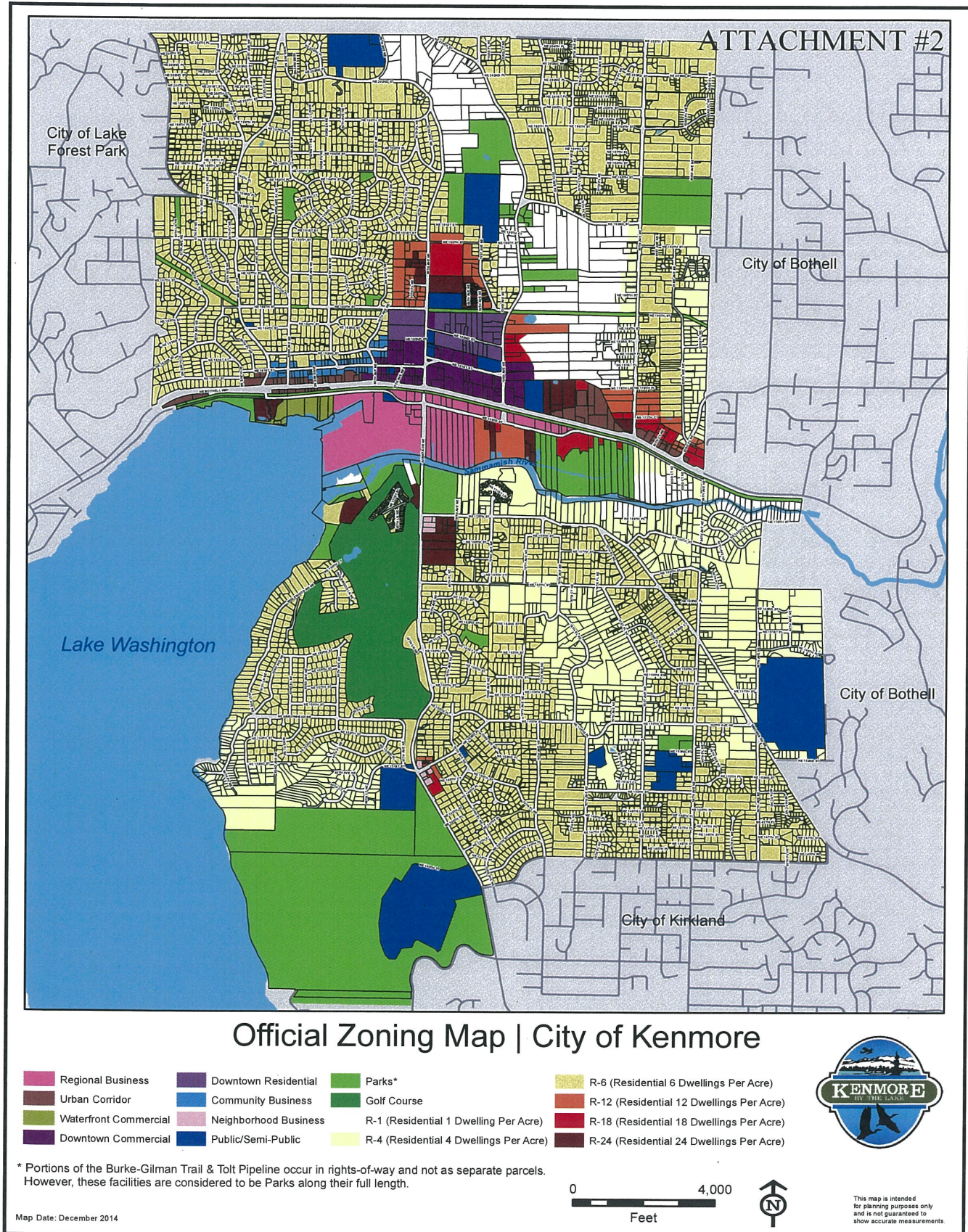
ATTEST/AUTHENTICATED

Patty Safrin, City Clerk

Approved as to form:

Rod P. Kaseguma, City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
ORDINANCE NO. 16-0417
DATE OF PUBLICATION:
EFFECTIVE DATE:



ATTACHMENT #3



The City of Kenmore

December 3, 2015

POLICE CHIEF

TO: Rob Karlinsey, City Manager
From: Clifford Sether, Police Chief & Jennifer Gordon, Public Works
Re: Alcohol in Kenmore City Parks

Kenmore City Ordinance 9.40.590 & 9.40.600 prohibits selling, opening or possessing alcoholic beverages or being in a state of intoxication in any City of Kenmore Parks. Violation of this ordinance is a misdemeanor, punishable by ninety days in jail and/or \$500 fine. Kenmore Police often enforces this ordinance and has occasionally booked violators in jail.

The ordinance establishes a "Bright line" rule when dealing with alcohol in our parks and has been an outstanding tool for our police to use in keeping our parks safe for our children.

Allowing alcohol to be sold in Kenmore parks, during a special event, places our children in danger. Although there would be restrictions placed on the vendor, it would still hamper the police from enforcing the "intoxication in the park" portion of the ordinance. A person would be able to enter the park, already intoxicated and roam the entire park, including the children's play area, during the special event. This would unnecessarily expose our children to the adverse effects of alcohol.

Kenmore City Council, City Public Works and Police have diligently worked to keep our parks a safe environment for our children. We are recommending that no change be made to our current park rules. There are many other venues in the city where special events can be held, with alcohol sales that would not have an effect on our children.

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City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Public Hearing on, and discussion of, proposed changes to the Public Agency and Utility Exception (PAUE) to the City's critical area regulations in KMC 18.55 Proposed Council Action/Motion: Hold a Public Hearing, and discuss the proposed recommendations	For Council Meeting Agenda of: 02/22/16 Department: <u>Community Development</u> Prepared by: <u>Debbie Bent, Community Development Director and Lauri Anderson, Senior Planner</u> Initial & Date Approved by Department Head: <u>DA 2/4/16</u> Approved by City Attorney: <u>[Signature] 2/4/16</u> Approved by Finance Director: <u>[Signature]</u> Approved by City Manager: <u>[Signature]</u> Exhibits/Attachments: 1. Proposed amendments
Expenditure Required \$0 Amount Budgeted: \$0 Appropriation Required \$0	
<u>INFORMATION/BACKGROUND:</u> A public hearing will be held on February 22 to obtain input on the proposed changes to the Public Agency and Utility Exception (PAUE) rules. Following the public hearing, Council has the opportunity to discuss the proposed changes and could direct staff to prepare an adopting ordinance if no substantive modifications are proposed. If Council directs staff to prepare an adopting ordinance it would be brought back for Council action on March 14. A PAUE to the critical area rules has been in place in Kenmore since 2006 when the City adopted its own critical area regulations. The code section was written to allow public agencies and utilities to apply for an exception to the critical area rules if strictly following the rules would prohibit a proposed public project or service extension. The Washington State Department of Commerce includes the PAUE in their "sample code provisions for drafting a critical areas ordinance." Most surrounding jurisdictions have a similar exception, including Redmond, Woodinville, Sammamish, Bothell, Lake Forest Park, and Seattle. Kirkland's provision applies only to utilities and trails. In 2009, following a challenge to the language in Kenmore's exception, the City Attorney determined that the exception, as written, only could be applied to utility activities—such as the extension of a utility line. This was not the intent of the original code section and clarifying the language is proposed (see Attachment 1). Staff has revised the language to clearly explain the intent of the code provision and to add new criteria about minimizing impact to critical areas and mitigation of impacts. The PAUE does not apply in areas covered by the Shoreline Master Program, including areas within 200' of Lake Washington, the Sammamish River and Swamp Creek, as well as their associated wetlands.	
<u>FISCAL CONSIDERATION:</u> None at this time.	
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> • Comprehensive Plan Natural Environment Sub-Element Policy LU-15.1.9: Alterations to wetlands may be allowed, only after all wetland functions are evaluated, the least harmful and reasonable alternatives are identified, and affected significant functions are appropriately mitigated, in order to: a. Accomplish a public agency or utility development; b. Provide necessary utility and road crossings... • Comprehensive Plan Utilities Element Objective U-1.1: Coordinate with the Northshore Utility District, the King County Department of Natural Resources Wastewater Treatment Division, and the City of Seattle to ensure that sufficient sanitary sewer infrastructure and treatment, water supply, infrastructure, and fire flow are available or can be provided to all areas of the community to meet existing and future needs and to protect environmental quality.	

I:/City Clerk/Agenda Items/Templates

- Comprehensive Plan Utilities Element Policy U-3.1.1: Ensure City regulations allow for improvements and additions to electric, natural gas...facilities as needed to accommodate growth, provide reliable service, and support economic development.
- Comprehensive Plan Capital Facilities Element Policy CF-2.1.1: Ensure City public facilities and services are provided concurrent with the impact of new development or redevelopment, including stormwater, roads, and local parks...
- Comprehensive Plan Parks, Recreation and Open Space Element Policy P-3.1.1.1: Establish and implement development regulations and incentives as allowable by law to provide responsible levels of public access and protection to environmentally sensitive areas in conjunction with private and public development.

City of Kenmore

Draft amendments – Public agency or private utility exception (PAUE)

18.55.160 Exception – Public agency and/or private utility.

A. If the strict application of this chapter would prohibit a development proposal by a public agency or public utility a private entity delivering water, sewer, stormwater, electrical, or gas services (private utility), the agency or private utility may apply for relief from strict application of this chapter through an exception pursuant to this section, unless the project is located on lands regulated under the Kenmore shoreline master program. Projects on lands regulated under the Kenmore shoreline master program are regulated under the procedures of Chapter 16.75 KMC.

B. Exception Request and Review Process. An application for a public agency and/or private utility exception shall be made to the city and shall include a critical areas report, including mitigation plan, if necessary, and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (SEPA).

C. City Manager Review. The city manager shall review the application. The city manager shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and private utility exception criteria in subsection D of this section.

D. Public Agency and Private Utility Exception Review Criteria. The criteria for review and approval of a public agency and/or private utility exceptions are as follows:

1. There is no other practical alternative to the proposed development proposal with less impact on the critical areas or buffer; and
2. The development proposal benefits the public; and
3. Strict application of this chapter would unreasonably restrict or prohibit the ability to provide utility services to the public development proposal; and
4. The development proposal minimizes impacts to the critical area or buffer to the maximum extent practical, for example, through placement of facilities on previously disturbed areas, boring rather than trenching for utilities, use of pervious or other low impact materials, etc.; and
5. The development proposal mitigates impacts to the critical area functions and values to the maximum extent practical, consistent with the best available science and with the objective of no net loss of critical area functions and values.

Amended definition

18.20.2102 Practical alternative.

"Practical alternative" means an alternative that is available and capable of being carried out after taking into consideration effectiveness, engineering feasibility, cost, safety, existing technology, and logistics in light of overall project needs, purposes and objectives, and has less impacts to *critical areas*.

Subject/Topic: Imagine Kenmore Potential
Bond Measure Package Concepts

Department: Public Works, Planning & Community
Development, Finance, and City Manager

Prepared by: Kris Overleese, Debbie Bent, Joanne Gregory

Proposed Council Action/Motion:
No formal action required.

Initial & Date

Approved by Department Head: KMO 2/12/16

Approved by City Attorney: NA

Approved by Finance Director: [Signature] 2/12/16

Approved by City Manager: [Signature]

Exhibits/Attachments:

Attachment A: Parks Package Project List
Attachment B: Transportation Package Project List
Attachment C: Walkways and Waterways Project list
Attachment D: Cost Estimate Summary of All Three
Potential Bond Packages.

Expenditure Required \$200,000

Amount Budgeted \$200,000

Appropriation Required \$0

INFORMATION/BACKGROUND:

The purpose of this Council discussion is to present three potential 2016 Bond Measure package alternatives. These project packages were created from the feedback provided by the Kenmore community over the past year through the Imagine Kenmore community outreach process. As previously discussed with Council, the outreach process included: public meetings, online surveys, interactive project mapping tool, and a statistically valid survey.

The intent of the Imagine Kenmore outreach process was to identify what projects, if any, the community would be likely to fund beyond what existing resources can provide. Please see the January 11, 2016 Council packet for a summary of the outreach process and the statistically valid survey results.

The three potential packages are 1) Parks and Recreation Projects (Parks), 2) Sidewalk, Bicycle and Trail (Transportation) Improvements, 3) Walkways and Waterways (select projects from packages 1 and 2). These packages were developed given the feedback and guidance from the community. Staff and our consultant team have spent much time together crafting packages that we believe meets the feedback provided by the community. Please see Attachment A for the Parks and Recreation project descriptions, Attachment B for the Sidewalks and Bicycle Facilities project information, and Attachment C for the Walkways and Waterways project list.

Note that the projects within the Walkways and Waterways (package 3 project list) are taken from both the Parks and Transportation lists.

The following is a summary of the potential projects within each package:

1) Parks and Recreation (\$16 M):

- Logboom Park Water Access
- Tolt Trail Phase II (73rd to 80th Avenues NE)
- Rhododendron Park Boardwalk
- Squires Landing Park
- St. Edwards Athletic Fields

2) Sidewalks, Bicycle and Trail (\$18.7 M):

- 61st Avenue: sidewalk replacement NE 190th to NE 200th Streets
- 68th Avenue: sidewalk construction NE 182nd Street to Locust Way/61st Avenue NE
- Juanita Drive Grant match: sidewalk construction NE 170th Street to City limits
- Tolt Boardwalk & Bridge Trail: 73rd to 80th Avenues NE

3) Walkways and Waterways (\$18.9 M):

- 68th Avenue: sidewalk construction NE 182nd Street to Locust Way/61st Avenue NE
- Juanita Drive Grant match: sidewalk construction NE 170th Street to City limits
- Logboom Park Water Access
- Rhododendron Park Boardwalk
- Squires Landing Park

Attachment D shows the cost estimate for each individual project within each of the three packages.

NEXT STEPS:

Staff asks that Council review the proposed packages and provide guidance at a near future Council meeting.

The next steps include:

- Council selection of the preferred potential bond package (February)
- Testing of the selected package through a statistically valid survey (March)
- Decision on whether to take a Bond Measure to the community for a vote (April)

Note that ultimately should the City move forward with a Bond Measure, staff recommends it go on the November ballot. A Bond Measure requires a 60% voter approval.

FINANCIAL IMPACT:

A voter approved bond measure would result in increased property tax revenue from the Kenmore community which would be used to pay back the bond. The table below demonstrates the average estimated cost to a Kenmore resident given different home values and an assumed bond measure of \$18,900,000.

Estimated Voted GO Bond Impact

2016 Assessed Value (AV)	\$3,619,618,281.00
Bond Size	\$18,900,000.00
Term of Bond in Years	20
Average Interest Rate of Bond	3%

Average Debt Service on the Bond	\$1,270,376.87
Tax Levy Impact per \$1,000 of AV	\$0.35
Average Monthly Impact on \$300,000 Value Residence	\$8.77
Average Monthly Impact on \$400,000 Value Residence	\$11.70
Average Monthly Impact on \$500,000 Value Residence	\$14.62

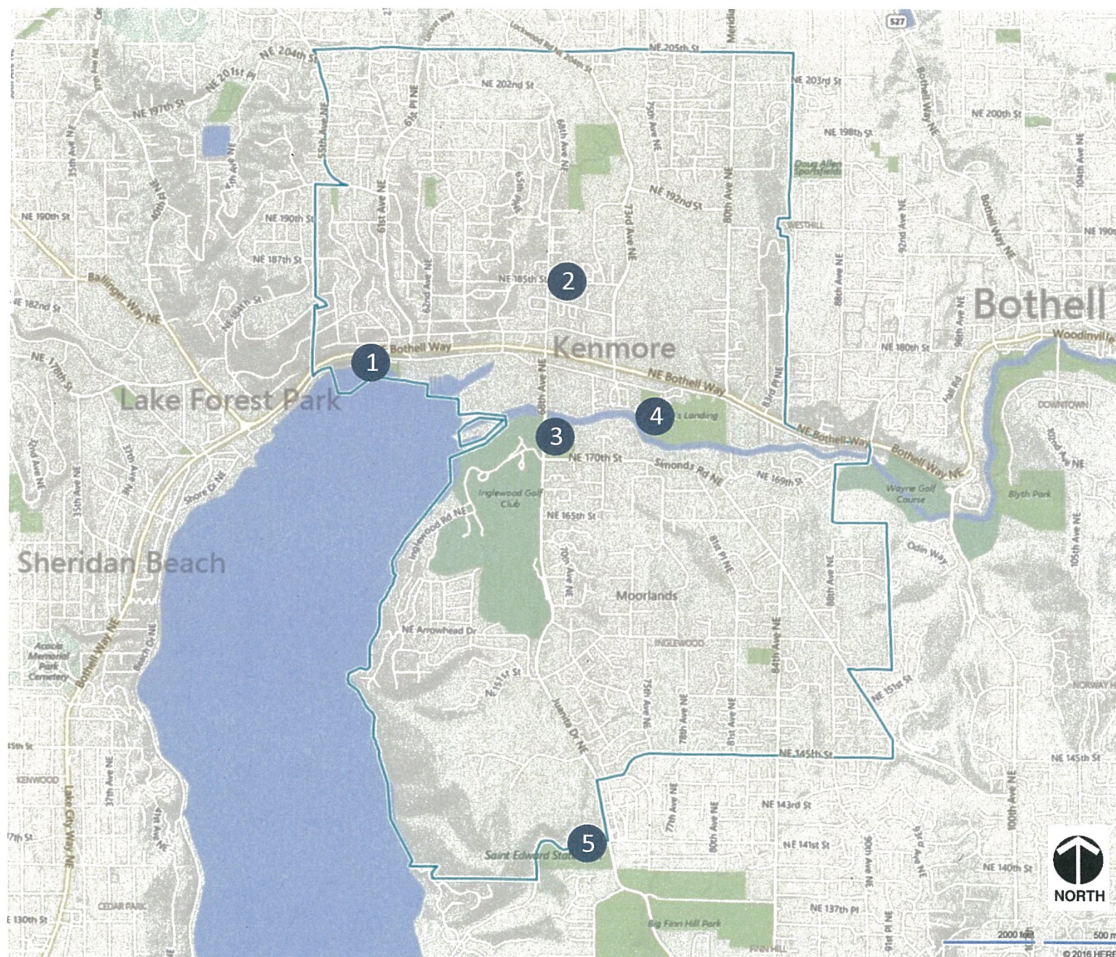
The individual Park project sheets in Attachments A and C show the estimated park annual maintenance costs which are not included in the capital costs of the projects. Sidewalk maintenance costs are minimal, however the level of landscaping and stormwater work associated with sidewalk and bike lane projects would result in the need for additional maintenance dollars. Funding strategies for annual maintenance will depend upon the selected package and will be developed at a later date.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

- 1 To focus on and emphasize multimodal transportation safety in the City of Kenmore with a specific focus on pedestrian, bicycle, and other means of travel.
2. To continue to implement the Economic Development Plan with an emphasis on the following key points:
 - Promote the image of Kenmore
 - Create a vibrant, walkable downtown
 - Support existing businesses
 - Advance the City's connection to the waterfront
4. To advance the public's access and connection to the waterfront.
5. To accelerate implementation of the Sidewalk Plan and pursue various funding options.
6. To identify, develop, and actively promote a walkable area in downtown.
8. To continue to implement a Parks Improvement and Financial Plan.

Attachment A: Draft Parks Package Project List

IMAGINE KENMORE: DRAFT PARKS AND RECREATION PACKAGE



1. Log Boom Waterfront Park
2. Tolt Trail Phase II
3. Rhododendron Park
4. Squire's Landing Park
5. Saint Edwards Athletic Fields

DRAFT: February 11, 2015

1

IMAGINE KENMORE: DRAFT PARKS & RECREATION PACKAGE

Project Name: Log Boom Park Water Access

Project Description: Provide water access at Log Boom Park to include a beach expansion, new trails, overlook, and a boat house for rentals and vendor use. New picnic areas, shoreline enhancements and wetland mitigation are also included.

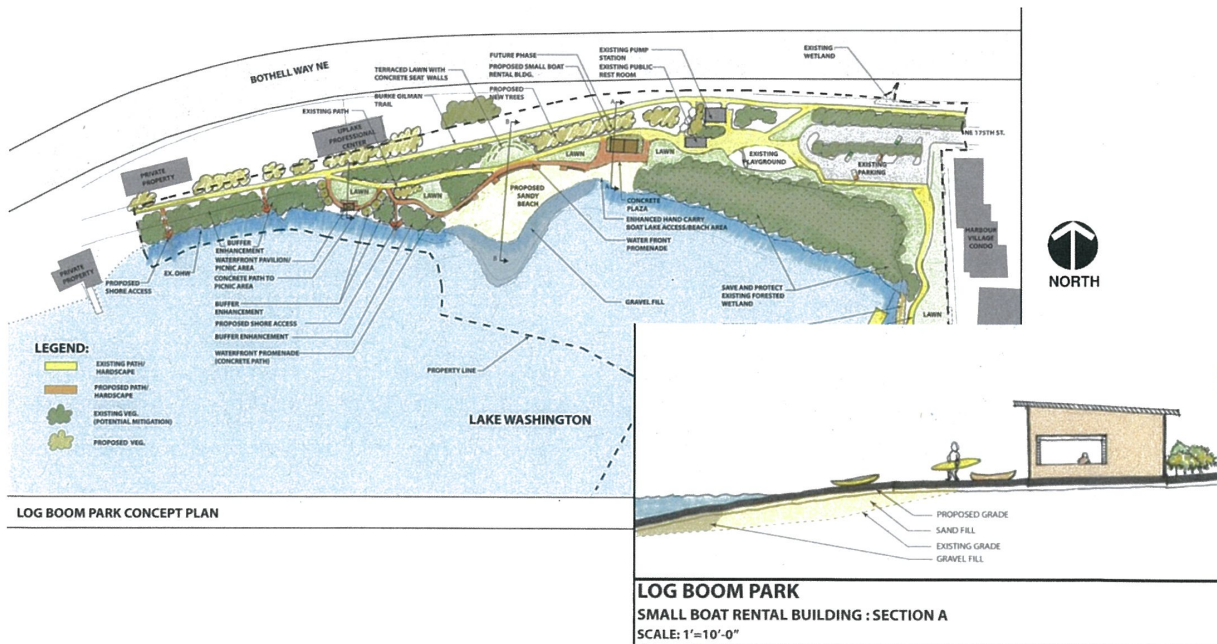
Cost Estimate

Construction Cost	\$	2,180,000
Admin / AE / Permit Cost	\$	1,020,000
Total Project Cost	\$	3,200,000*
Annual Maintenance Cost	\$	30,000

* Based on 2016 construction costs, escalation not include, maintenance costs are for newly improved acres only.

Key Features

- Trails
- Plaza
- Lawn Amphitheater
- Overlook
- Boat Rental Building
- Water Access
- Expanded Beach
- Interpretive Education



DRAFT: February 10, 2016

1

2

IMAGINE KENMORE: DRAFT PARKS & RECREATION PACKAGE

Project Name: Tolt Trail Phase II

Project Description: Complete the Tolt Trail along NE 185th Street from 73rd Avenue NE to 80th Avenue NE. This segment of the trail crosses Swamp Creek and an extensive wetland system adjacent to the creek. It will connect neighbors, provide educational opportunities, allow residents to experience a unique natural system in the city, and completes a missing link in a larger east-west regional trail system.

Cost Estimate

Construction Cost	\$ 2,900,000
Admin / AE / Permit Cost	\$ 1,100,000
Total Project Cost	\$ 4,000,000*
Annual Maintenance Cost	\$ 29,000

Key Features

- Trails
- Boardwalk
- Interpretive Education
- Overlooks
- Bird Watching Shelters

* Based on 2016 construction costs, escalation not included.



DRAFT: February 10, 2016

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4

IMAGINE KENMORE: DRAFT PARKS & RECREATION PACKAGE

Project Name: Squire's Landing Park

Project Description: New park development to enhance water access to the Sammamish River. The park will include parking, pocket beach, plaza and boat house. Trails will provide passive recreation and connect the park to Swamp Creek, Sammamish River, and the adjacent Burke-Gilman Trail along NE 175th Street.

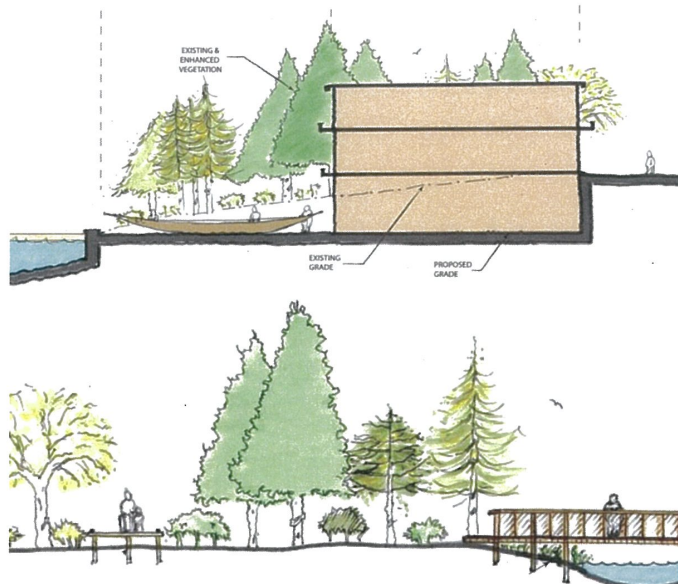
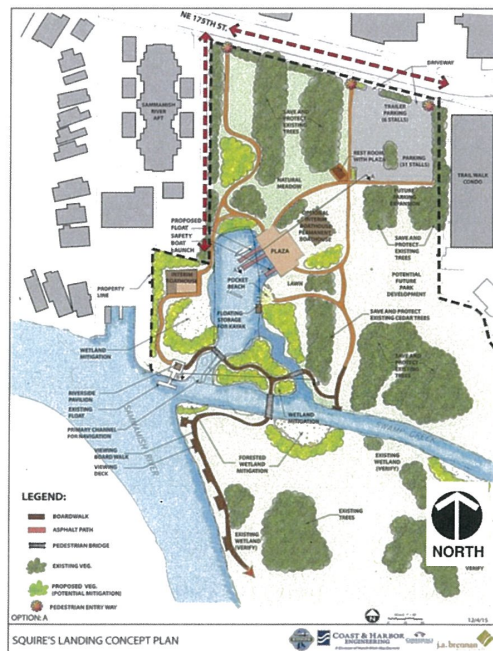
Cost Estimate

Construction Cost	\$ 3,430,000
Admin / AE / Permit Cost	\$ 1,570,000
Total Project Cost	\$ 5,000,000*
Annual Maintenance Cost	\$ \$80,000-\$115,000

* Based on 2016 construction costs, escalation not include, maintenance costs are for newly improved acres only.

Key Features

- Trails
- Boardwalk
- Water Access
- Docks / Floats
- Overlooks
- Restrooms
- Interpretive Education
- Parking (37 stalls)



DRAFT: February 10, 2016

4

5

IMAGINE KENMORE: DRAFT PARKS & RECREATION PACKAGE

Project Name: Saint Edwards Athletic Fields

Project Description: Improve two baseball fields at Saint Edwards State Park with synthetic turf to increase capacity and use of an existing facility. Enhancing existing support facilities for the dugouts, access and fencing is also included.

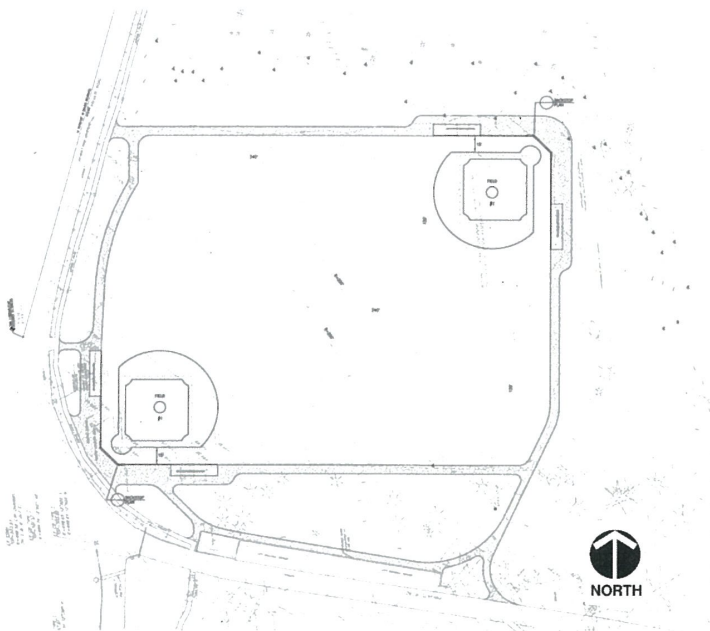
Cost Estimate

Construction Cost	\$ 2,600,000
Admin / AE / Permit Cost	\$ 400,000
Total Project Cost	\$ 3,000,000*
Annual Maintenance Cost	\$ 44,000

* Based on 2016 construction costs, escalation not include, maintenance costs are for newly improved acres only.

Key Features

- Synthetic Turf
- Dugouts
- Backstop Fencing
- Parking Improvements
- Lighting
- Trails



DRAFT: February 10, 2016

5

Attachment B: Draft Transportation Package Projects List

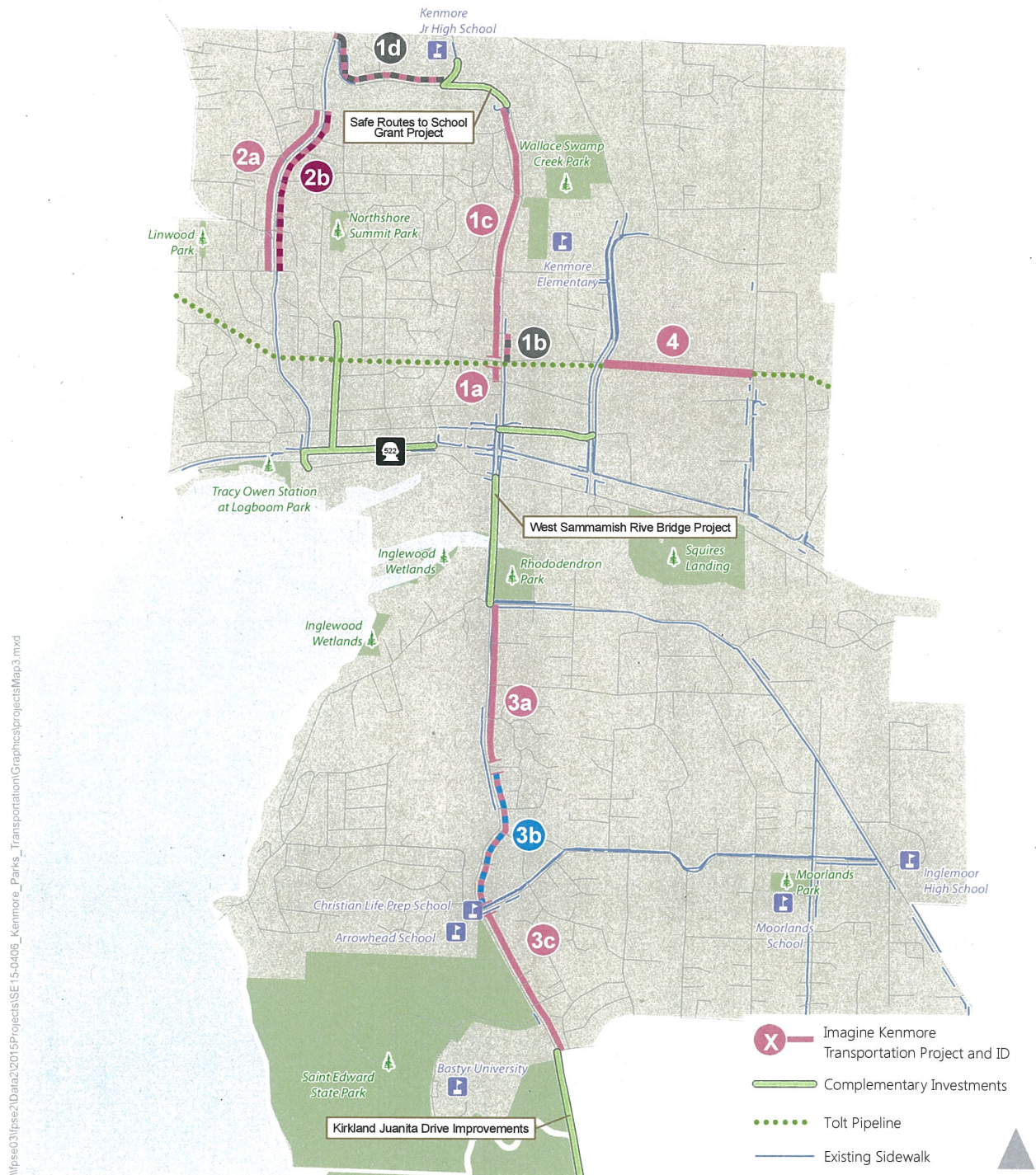


Figure 1
Imagine Kenmore Transportation Projects

1

IMAGINE KENMORE: DRAFT BIKE/PEDESTRIAN PACKAGE

Project Name: 68th Ave NE/ NE 202nd St

Project Description: This project completes the sidewalk on the east side of 68th Ave NE by adding a cantilever sidewalk in front of Northshore Utility District. Sidewalk is added on the west side from NE 182nd St to NE 201st St, where the project meets the Safe Routes to School grant funded project. The project also includes sidewalk on the north side of NE 202nd St from 66th Ave NE, where the Safe Routes to School project ends, to 61st Ave NE.

The project is separated into 4 segments:

Segment a: Sidewalk on west side of 68th Ave NE from NE 182nd St to NE 185th St

Segment b: Sidewalk on east side of 68th Ave NE from NE 185th St to meet existing

Segment c: Sidewalk on west side of 68th Ave NE from NE 185th St to NE 201st St

Segment d: Sidewalk on north side of NE 202nd St from 66th Ave NE to 61st Ave NE

Cost Estimate:

Segment a: \$230,000

Segment b: \$240,000

Segment c: \$2,800,000

Segment d: \$1,630,000

Total: \$4,900,000

Key Features:

With the Safe Routes to School grant funded project, this project creates a continuous sidewalk on 68th Ave NE.

The cost estimate assumes replacement of all existing sidewalk in the study area.



Location of Cantilevered Sidewalk



West side of 68th Ave NE



The project will meet the Safe Routes to School project

DRAFT: February 11, 2016

1

2

IMAGINE KENMORE: DRAFT BIKE/PEDESTRIAN PACKAGE

Project Name: 61st Ave NE

Project Description: This project replaces existing deteriorating sidewalk on 61st Ave NE from NE 190th St to NE 200th St

The project is separated into 2 separate segments:

Segment a: Sidewalk on west side of 61st Ave NE from NE 190th St to NE 200th St

Segment b: Sidewalk on east side of 61st Ave NE from NE 190th St to NE 200th St

Cost Estimate:

Segment a: \$2,850,000

Segment b: \$1,950,000

Total: \$4,800,000

Key Features:

This cost estimate assumes replacement of all existing sidewalk and trees in the study area to provide a more usable sidewalk between NE 190th St and NE 200th St.



Deteriorating sidewalk and trees to be replaced

3

IMAGINE KENMORE: DRAFT TRANSPORTATION PACKAGE

Project Name: Juanita Drive

Project Description: This projects adds sidewalk to the east side of Juanita Drive and bike lanes on both sides with a 2 foot buffer from NE 170th St to the southern City Limits. The project involves some roadway widening and estimated right-of-way acquisition. The project cost could vary if right-of-way acquisition requirements change. The project includes adding and extending existing left turn lanes as proposed in the “Skinny Juanita” section of the 2008 Juanita Drive report.

The project is separated into three segments:

Segment a: Add sidewalk and bike lanes from NE 170th St to NE 160th St

Segment b: Add sidewalk and bike lanes from NE 160th St to NE 153rd PI

Segment c: Add sidewalk and bike lanes from NE 153rd PI to NE 143rd St (City limits)

Cost Estimate:

Segment a: \$3,064,746

Segment b: \$4,258,508

Segment c: \$5,408,860

Total: \$12,732,114

Key Features:

The project, together with Kirkland’s planned bicycle and pedestrian improvements to the south and the West Sammamish Bridge Project to the north, will provide continuous and greatly enhanced pedestrian and bicycle facilities on Juanita Drive. The project includes adding and expanding left turn lanes consistent with the “Skinny Juanita” plan. The project includes widening around the NE 155th St curve.



Existing Conditions on Juanita Drive



Rendering of cross-section courtesy of the
City of Kirkland

DRAFT: February 9, 2015

4

IMAGINE KENMORE: DRAFT PARKS & RECREATION PACKAGE

Project Name: Tolt Trail Phase II

Project Description: Complete the Tolt Trail along NE 185th Street from 73rd Avenue NE to 80th Avenue NE. This segment of the trail crosses Swamp Creek and an extensive wetland system adjacent to the creek. It will connect neighbors, provide educational opportunities, allow residents to experience a unique natural system in the city, and completes a missing link in a larger east-west regional trail system.

Cost Estimate

Construction Cost	\$	2,900,000
Admin / AE / Permit Cost	\$	<u>1,100,000</u>
Total Project Cost	\$	4,000,000*
Annual Maintenance Cost	\$	29,000

* Based on 2016 construction costs, escalation not included.

Key Features

- Trails
- Boardwalk
- Interpretive Education
- Overlooks
- Bird Watching Shelters



DRAFT: February 10, 2016

2

Attachment C: Draft Walkways and Waterways Project List

1

IMAGINE KENMORE: DRAFT BIKE/PEDESTRIAN PACKAGE

Project Name: 68th Ave NE/ NE 202nd St

Project Description: This project completes the sidewalk on the east side of 68th Ave NE by adding a cantilever sidewalk in front of Northshore Utility District. Sidewalk is added on the west side from NE 182nd St to NE 201st St, where the project meets the Safe Routes to School grant funded project. The project also includes sidewalk on the north side of NE 202nd St from 66th Ave NE, where the Safe Routes to School project ends, to 61st Ave NE.

The project is separated into 4 segments:

Segment a: Sidewalk on west side of 68th Ave NE from NE 182nd St to NE 185th St

Segment b: Sidewalk on east side of 68th Ave NE from NE 185th St to meet existing

Segment c: Sidewalk on west side of 68th Ave NE from NE 185th St to NE 201st St

Segment d: Sidewalk on north side of NE 202nd St from 66th Ave NE to 61st Ave NE

Cost Estimate:

Segment a: \$230,000

Segment b: \$240,000

Segment c: \$2,800,000

Segment d: \$1,630,000

Total: \$4,900,000

Key Features:

With the Safe Routes to School grant funded project, this project creates a continuous sidewalk on 68th Ave NE.

The cost estimate assumes replacement of all existing sidewalk in the study area.



Location of Cantilevered Sidewalk



West side of 68th Ave NE



The project will meet the Safe Routes to School project

3

IMAGINE KENMORE: DRAFT TRANSPORTATION PACKAGE

Project Name: Juanita Drive

Project Description: This projects adds sidewalk to the east side of Juanita Drive and bike lanes on both sides with a 2 foot buffer from NE 170th St to the southern City Limits. The project involves some roadway widening and estimated right-of-way acquisition. The project cost could vary if right-of-way acquisition requirements change. The project includes adding and extending existing left turn lanes as proposed in the “Skinny Juanita” section of the 2008 Juanita Drive report.

The project is separated into three segments:

Segment a: Add sidewalk and bike lanes from NE 170th St to NE 160th St

Segment b: Add sidewalk and bike lanes from NE 160th St to NE 153rd PI

Segment c: Add sidewalk and bike lanes from NE 153rd PI to NE 143rd St (City limits)

Cost Estimate:

Segment a: \$3,064,746

Segment b: \$4,258,508

Segment c: \$5,408,860

Total: \$12,732,114

Key Features:

The project, together with Kirkland’s planned bicycle and pedestrian improvements to the south and the West Sammamish Bridge Project to the north, will provide continuous and greatly enhanced pedestrian and bicycle facilities on Juanita Drive. The project includes adding and expanding left turn lanes consistent with the “Skinny Juanita” plan. The project includes widening around the NE 155th St curve.



Existing Conditions on Juanita Drive



Rendering of cross-section courtesy of the
City of Kirkland

DRAFT: February 9, 2015

1

IMAGINE KENMORE: DRAFT PARKS & RECREATION PACKAGE

Project Name: Log Boom Park Water Access

Project Description: Provide water access at Log Boom Park to include a beach expansion, new trails, overlook, and a boat house for rentals and vendor use. New picnic areas, shoreline enhancements and wetland mitigation are also included.

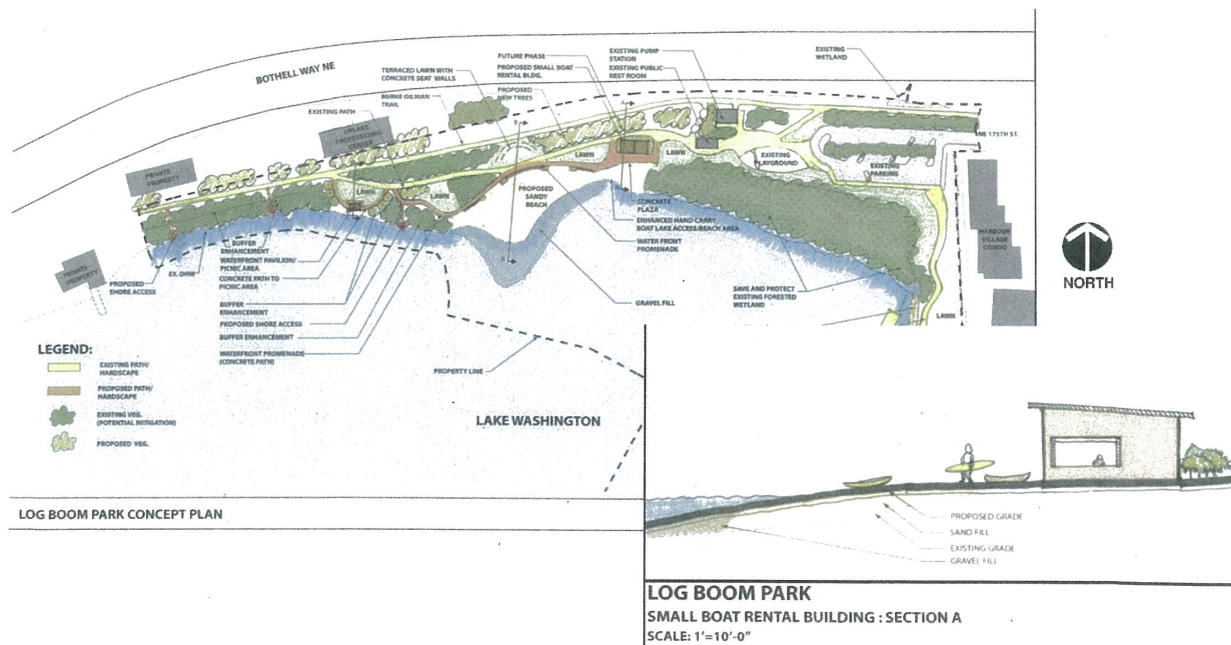
Cost Estimate

Construction Cost	\$ 2,180,000
Admin / AE / Permit Cost	\$ 1,020,000
Total Project Cost	\$ 3,200,000*
Annual Maintenance Cost	\$ 30,000

* Based on 2016 construction costs, escalation not include, maintenance costs are for newly improved acres only.

Key Features

- Trails
- Plaza
- Lawn Amphitheater
- Overlook
- Boat Rental Building
- Water Access
- Expanded Beach
- Interpretive Education



DRAFT: February 10, 2016

1

3

IMAGINE KENMORE: DRAFT PARKS & RECREATION PACKAGE

Project Name: Rhododendron Park

Project Description: Enhance water access to the Sammamish River by hand-carry boats (kyaks, canoe, etc.) with an improved access drive adjacent to 68th Ave. NE and drop-off area for a future boat house. The new access and parking will be connected to the existing park improvements with a boardwalk and trail through the wetland area.

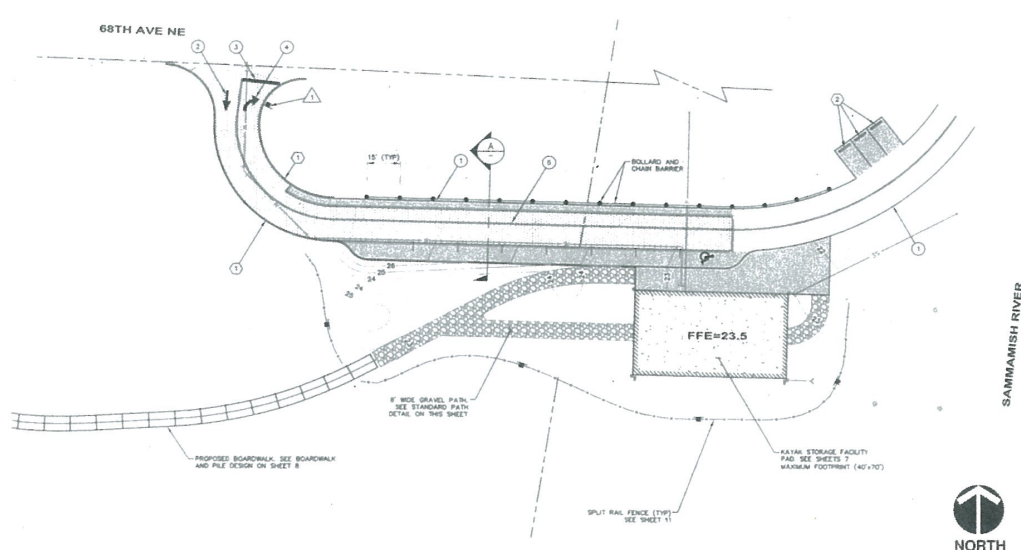
Cost Estimate

Construction Cost	\$	640,000
Admin / AE / Permit Cost	\$	160,000
Total Project Cost	\$	800,000*
Annual Maintenance Cost	\$	11,500

Key Features

- Trails
- Boardwalk
- Water Access
- Vehicular Drive/Drop-Off
- Interpretive Education

* Based on 2016 construction costs, escalation not include, maintenance costs are for newly improved acres only.



DRAFT: February 10, 2016

3

4

IMAGINE KENMORE: DRAFT PARKS & RECREATION PACKAGE

Project Name: Squire's Landing Park

Project Description: New park development to enhance water access to the Sammamish River. The park will include parking, pocket beach, plaza and boat house. Trails will provide passive recreation and connect the park to Swamp Creek, Sammamish River, and the adjacent Burke-Gilman Trail along NE 175th Street.

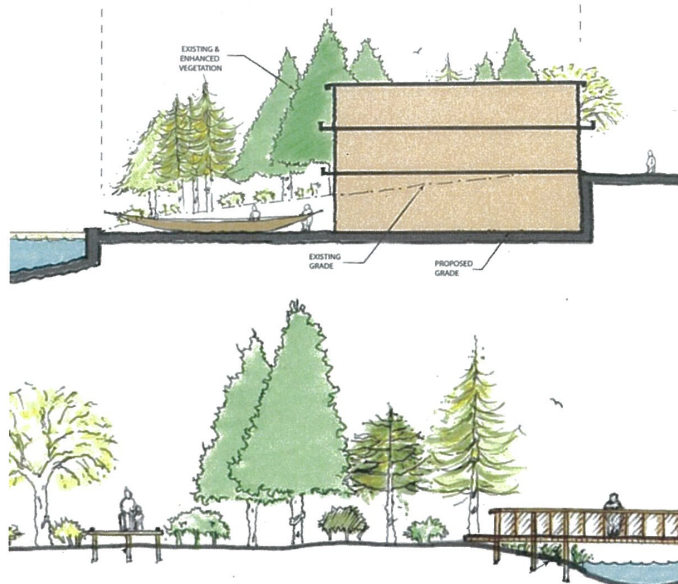
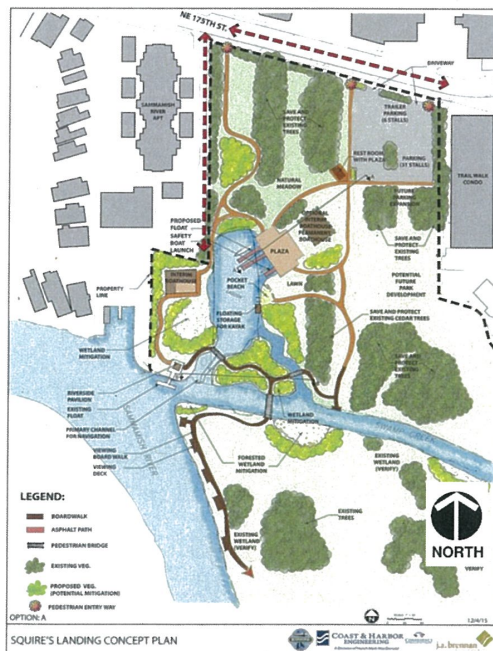
Cost Estimate

Construction Cost	\$ 3,430,000
Admin / AE / Permit Cost	\$ 1,570,000
Total Project Cost	\$ 5,000,000*
Annual Maintenance Cost	\$ \$80,000-\$115,000

* Based on 2016 construction costs, escalation not include, maintenance costs are for newly improved acres only.

Key Features

- Trails
- Boardwalk
- Water Access
- Docks / Floats
- Overlooks
- Restrooms
- Interpretive Education
- Parking (37 stalls)



DRAFT: February 10, 2016

4

Attachment D: Cost Estimate Summary

Attachment D

Draft Cost Estimates Imagine Kenmore: February 11, 2016

(Planning-level estimates only, based on 0% design)

Parks & Recreation Package

- Log Boom Park Water Access \$3,200,000
 - Tolt Trail Phase II \$4,000,000
 - Rhododendron Park \$800,000
 - Squire's Landing Park \$5,000,000
 - Saint Edwards Synthetic Turf Fields \$3,000,000
- Total \$16,000,000**

Pedestrian/Bike Package

- 68th Ave/202nd Street Sidewalks \$4,900,000
 - 61st Street Sidewalk Replacement/Completion \$4,800,000
 - Juanita Drive Grant Match* \$5,000,000
 - Tolt Trail Phase II** \$4,000,000
- Total \$18,700,000**

* Does not include full cost, see detail in Pedestrian/Bike Package

See detail in **Parks Package (#2)

Walkways and Waterways

- 68th Ave/202nd Street Sidewalks \$4,900,000
 - Juanita Drive Grant Match* \$5,000,000
 - Log Boom Park Water Access \$3,200,000
 - Rhododendron Park \$800,000
 - Squire's Landing Park \$5,000,000
- Total \$18,900,000**

* Does not include full cost, see detail in Pedestrian/Bike Package

See detail in Parks & Recreation Package and Bike and Pedestrian Package

Imagine Kenmore

Debbie Bent, Kris Overleese, Joanne Gregory, Leslie Harris

February 22, 2016

Parks & Recreation Package (\$16M)

- Log Boom Park Water Access
- Tolt Trail Phase II (73rd to 80th Avenues NE
- Rhododendron Park Boardwalk
- Squire's Landing Park
- St. Edward Athletic Fields

Sidewalks, Bicycle & Trail (\$18.7M)

- 61st Avenue
 - Sidewalk replacement (NE 190th to NE 200th Streets)
- 68th Avenue
 - Sidewalk construction (NE 182nd to 61st Ave NE/Locust Way)
- Juanita Drive Grant Match
 - Sidewalk design/construction NE 170th St south to City limits
- Tolt Trail Phase II (NE 73rd to NE 80th Avenues NE)

Walkways & Waterways (\$18.9M)

- 68th Avenue
 - Sidewalk construction (NE 182nd to 61st Ave NE/Locust Way)
- Juanita Drive Grant Match
 - Sidewalk design/construction NE 170th St south to City limits
- Log Boom Park Water Access
- Rhododendron Park Boardwalk
- Squire's Landing Park

Next Steps

- March 14 – Community Open House 6 p.m.
- March 14 – Council selects package to test
- March/April – Statistically valid survey
- April/May – Council decides: 1) whether to put an item on the fall ballot and 2) if yes, which project package

Subject/Topic:
**Ordinance No. 16-0416 Establishing
Administrative Provisions for Business and
Occupation Tax**

Proposed Council Action/Motion:
Adopt Ordinance No. 16-0416 Establishing Administrative Provisions for Business and Occupation Tax on Heavy Manufacturing in the City; Adding a New Chapter 3.80 to the Kenmore Municipal Code.

Exhibits/Attachments:
Exhibit 1: Ordinance No. 16-0416

Appropriation Required \$0

The B&O tax at the City level is not administered by the Washington State Department of Revenue. The City is required to administer the tax, create its own reporting form and determine the frequency of filing and paying. The City is responsible for any audit, refunds, appeal, assessment of penalties or interest in case of late or non-payment (ie: enforcement). Administrative provisions must be enacted through an additional ordinance that

conforms to the State's model which is attached for City Council consideration and adoption.

FISCAL CONSIDERATION:

There is no direct expenditure required as a result of this action; costs incurred include City Attorney and staff time.

Due to confidentiality restrictions regarding taxpayer identification and taxable receipts, no information on potential revenue is provided.

COUNCIL VISION OBJECTIVES BEING ADDRESSED:

See Kenmore's Vision Statement in the Comprehensive Plan adopted in 2015.

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 16-0416**

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, ESTABLISHING ADMINISTRATIVE
PROVISIONS FOR BUSINESS AND OCCUPATION TAX ON
HEAVY MANUFACTURING IN THE CITY; ADDING A NEW
CHAPTER 3.80 TO THE KENMORE MUNICIPAL CODE;
PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE
DATE.**

WHEREAS, the Washington Constitution, Article XI, Section 12 allows the legislature to grant municipalities the power to assess and collect taxes for municipal purposes; and

WHEREAS, in RCW 35A.11.020 and RCW 35A.82.020 the legislature has authorized code cities, such as the City of Kenmore, to license for revenue and to enact a tax on the gross receipts of a business; and

WHEREAS, in accordance with RCW 35.21.710, the taxing authority granted to cities for taxes upon business activities measured by gross receipts or gross income from sales shall not exceed a rate of 0.0020; and

WHEREAS, in Chapter 35.102 RCW, the legislature directed that a model business and occupation tax ordinance be developed and prepared, and requires that any city seeking to impose a business and occupation tax must adopt the mandatory provisions of the model ordinance; and

WHEREAS, the legislature has also directed that a model administrative provisions business and occupation tax ordinance be developed and prepared, and requires that any city seeking to impose a business and occupation tax must adopt the mandatory provisions of the model ordinance; and

WHEREAS, the provisions of this Ordinance meet the requirements of Chapter 35.102 RCW; and

WHEREAS, the City Council determined that imposing a business and occupation tax on the value of the products of heavy manufacturing in the City is in the best interests of the City, and will serve the health, safety and general welfare of the general public; and

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WHEREAS, on January 25, 2016 the City Council adopted Ordinance 15-0414, establishing a business and occupation tax on heavy manufacturing in the City; and adding a new Chapter 3.75 to the Kenmore Municipal Code; and

WHEREAS, the City Council has determined that the adoption of this Ordinance establishing administrative provisions for the City's business and occupation tax is necessary, in the best interests of the City, and will serve the health, safety and general welfare of the general public;

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

Section 1. A new Chapter 3.80 entitled "Administrative Provisions for Business and Occupation Tax" is hereby enacted to read as follows:

**CHAPTER 3.80
ADMINISTRATIVE PROVISIONS FOR BUSINESS AND OCCUPATION TAX**

3.80.010 Purpose.

The provisions of this chapter are an exercise of the police and taxation powers of the City to license for revenue purposes and to govern the privilege of engaging in business in the City.

3.80.015 Application of chapter stated. The provisions of this chapter shall apply with respect to the taxes imposed under chapter 3.75 and under other titles, chapters, and sections of the City code in such manner and to such extent as indicated in each such title, chapter or section.

3.80.020 Definitions. For purposes of this chapter:

The definitions contained in chapter 3.75 of the City code shall apply equally to the provisions of this chapter unless the term is defined otherwise in this chapter. In addition, the following definitions will apply:

A "Director" means the City's finance director or the director's designee.

B. "Reporting period." "Reporting period" means:

(1) A one-month period beginning the first day of each calendar month (monthly); or

(2) A three-month period beginning the first day of January, April, July or October of each year (quarterly); or

(3) A twelve-month period beginning the first day of January of each year (annual).

C. "Return." "Return" means any document a person is required by the City to file to satisfy or establish a tax or fee obligation that is administered or collected by the City and that has a statutorily defined due date.

D. "Successor." "Successor" means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

E. "Tax year," "taxable year." "Tax year" or "taxable year" means the calendar year.

3.80.021 Definitions -- References to Chapter 82.32 RCW.

Where provisions of Chapter 82.32 RCW are incorporated in KMC 3.80.090, "Department" as used in the RCW shall refer to the "Director" as defined in KMC 3.80.020 and "warrant" as used in the RCW shall mean "citation or criminal complaint."

3.80.030 Registration/license requirements.

See Title 5 of the Kenmore Municipal Code for applicable business registration and licensing requirements.

3.80.040 When due and payable - Reporting periods - Monthly, quarterly, and annual returns - Threshold provisions or Relief from filing requirements - Computing time periods - Failure to file returns.

A. Other than any annual license fee or registration fee assessed in accordance with Title 5 of the City code, the tax imposed by Chapter 3.75 of the City code, or by any other section, chapter or title providing that the tax or fee is administered under this chapter, shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

B. Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.

C. Tax returns must be filed and returned by the due date whether or not any tax is owed.

D. For purposes of the tax imposed by chapter 3.75 of the City code, any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, is equal to or less than Five Thousand Dollars (\$5,000) in the current quarter, shall file a return, declare no tax due on their return, and submit the return to the Director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

E. A taxpayer that commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity.

F. Except as otherwise specifically provided by any other provision of this chapter, in computing any period of days prescribed by this chapter the day of the act or event from which the designated period of time runs shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or City or Federal legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or City or Federal legal holiday.

G. If any taxpayer fails, neglects or refuses to make a return as and when required in this chapter, the Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the Director's estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the City by the taxpayer. The Director shall notify the taxpayer by mail of the amount of tax so

determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

3.80.050 Payment methods - Mailing returns or remittances - Time extension - Deposits - Recording payments - Payment must accompany return - NSF checks.

A. Taxes shall be paid to the Director in United States currency by bank draft, certified check, cashier's check, personal check, money order, cash, or by wire transfer or electronic payment if such wire transfer or electronic payment is authorized by the Director. If payment so received is not paid by the bank on which it is drawn, the taxpayer, by whom such payment is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such payment had not been tendered. Acceptance of any sum by the Director shall not discharge the tax or fee due unless the amount paid is the full amount due.

B. A return or remittance that is transmitted to the City by United States mail shall be deemed filed or received on the date shown by the cancellation mark stamped by the Post Office upon the envelope containing it. The Director may allow electronic filing of returns or remittances from any taxpayer. A return or remittance which is transmitted to the City electronically shall be deemed filed or received according to procedures set forth by the Director.

C. If a written request is received prior to the due date, the Director, for good cause, may grant, in writing, additional time within which to make and file returns.

D. The Director shall keep full and accurate records of all funds received or refunded. The Director shall apply payments first against all penalties and interest owing, and then upon the tax, without regard to any direction of the taxpayer.

E. For any return not accompanied by a remittance of the tax shown to be due thereon, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the penalties and interest provided in this chapter.

F. Any payment made that is returned for lack of sufficient funds or for any other reason will not be considered received until payment by certified check, money order, or cash of the original amount due, plus a "non-sufficient funds" (NSF) charge of twenty dollars (\$20.00) is received by the Director. Any license issued upon payment with a NSF check will be considered void, and shall be returned to the Director. No license shall be reissued until payment (including the twenty dollars (\$20.00) NSF fee) is received.

G. The Director is authorized, but not required, to mail tax return forms to taxpayers, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes or fees, when and as due under this chapter.

.060 Records to be preserved - Examination - Estoppel to question assessment.

Every person liable for any fee or tax administered under this chapter shall keep and preserve, for a period of five (5) years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, vendor lists, inventories, stocks of merchandise, and other data including federal income tax and state tax returns and reports shall be open for examination at any time by the Director or its duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

A. If a person does not keep the necessary books and records within the City, it shall be sufficient if such person (1) produces within the City such books and records as may be required

by the Director, or (2) bears the cost of examination by the Director's agent at the place where such books and records are kept; provided that the person electing to bear such cost shall pay in advance to the Director the estimated amount thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.

B. Any person who fails, or refuses a Department request, to provide or make available records, or to allow inspection or examination of the business premises, shall be forever barred from questioning in any court action, the correctness of any assessment of taxes made by the City for any period for which such records have not been provided, made available or kept and preserved, or in respect of which inspection or examination of the business premises has been denied. The Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the estimate of the tax or fees due. Such fee or tax assessment shall be deemed prima facie correct and shall be the amount of tax owing the City by the taxpayer. The Director shall notify the taxpayer by mail the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

3.80.070 Accounting methods.

A. A taxpayer may file tax returns in each reporting period with amounts based upon cash receipts only if the taxpayer's books of account are kept on a cash receipts basis. A taxpayer that does not regularly keep books of account on a cash receipts basis must file returns with amounts based on the accrual method.

B. The taxes administered and the returns required hereunder shall be upon a calendar year basis.

3.80.080 Public work contracts - Payment of fee and tax before final payment for work.

The Director may, before issuing any final payment to any person performing any public work contract for the City, require such person to pay in full all license fees or taxes due under this Title or Title 5 of the City code from such person on account of such contract or otherwise, and may require such taxpayer to file with the Director a verified list of all subcontractors supplying labor and/or materials to the person in connection with said public work.

3.80.090 Underpayment of tax, interest, or penalty – Interest.

A. If, upon examination of any returns, or from other information obtained by the Director, it appears that a tax or penalty less than that properly due has been paid, the Director shall assess the additional amount found to be due and shall add thereto interest on the tax only. The Director shall notify the person by mail of the additional amount, which shall become due and shall be paid within thirty (30) days from the date of the notice, or within such time as the Director may provide in writing.

B. For tax periods after December 31, 2004 the Director shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended.

C. If subsection B of this section is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this chapter shall apply.

3.80.095 Time in which assessment may be made.

The Director shall not assess, or correct an assessment for, additional taxes, penalties, or interest due more than four years after the close of the calendar year in which they were incurred, except that the Director may issue an assessment:

- A. Against a person who is not currently registered or licensed or has not filed a tax return as required by this chapter for taxes due within the period commencing 10 years prior to the close of the calendar year in which the person was contacted in writing by the Director;
- B. Against a person that has committed fraud or who misrepresented a material fact; or
- C. Against a person that has executed a written waiver of such limitations.

3.80.100 Over payment of tax, penalty, or interest - Credit or refund - Interest rate - Statute of limitations.

- A. If, upon receipt of an application for a refund, or during an audit or examination of the taxpayer's records and tax returns, the Director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection B of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four (4) years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.
- B. The execution of a written waiver shall extend the time for applying for, or making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the Director discovers that a refund or credit is due.
- C. Refunds shall be made by means of vouchers approved by the Director and by the issuance of a City check or warrants drawn upon and payable from such funds as the City may provide.
- D. Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner, as provided in subsection C of this section, upon the filing with the Director a certified copy of the order or judgment of the court.
- E. For tax periods after December 31, 2004 the Director shall compute interest on refunds or credits of amounts paid or other recovery allowed a taxpayer in accordance with RCW 82.32.060 as it now exists or as it may be amended.
- F. If subsection E of this section is held to be invalid, then the provisions of RCW 82.32.060 existing at the effective date of this chapter shall apply

3.80.110 Late payment - Disregard of written instructions - Evasion - Penalties.

- A. If payment of any tax due on a return to be filed by a taxpayer is not received by the Director by the due date, the Director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.
- B. If Director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.
- C. If a citation or criminal complaint is issued by the Director for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.

- D. If the Director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the Director a license as required by Title 5 of this code, the Director shall impose a penalty in accordance with RCW 82.32.090(4), as it now exists or as it may be amended. No penalty shall be imposed under this subsection D if the person who has engaged in business without a license obtains a license prior to being notified by the Director of the need to be licensed.
- E. If the Director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.
- F. If the Director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the Director shall assess a penalty in accordance with RCW 82.32.090(6), as it now exists or as it may be amended.
- G. The penalties imposed under subsections A through E above of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.
- H. The Director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.
- I. For the purposes of this section, "return" means any document a person is required by the City to file to satisfy or establish a tax or fee obligation that is administered or collected by the City, and that has a statutorily defined due date.
- J. If incorporation into the Kenmore Municipal Code of future changes to RCW 82.32.090 is deemed invalid, then the provisions of RCW 82.32.090 existing at the time this chapter is effective shall apply.

3.80.120 Cancellation of penalties.

- A. The Director may cancel any penalties imposed under KMC 3.80.110A if the taxpayer shows that its failure to timely file or pay the tax was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that it exercised ordinary business care and prudence in making arrangements to file the return and pay the tax but was, nevertheless, due to circumstances beyond the taxpayer's control, unable to file or pay by the due date. The Director has no authority to cancel any other penalties or to cancel penalties for any other reason except as provided in subsection C of this section.
- B. A request for cancellation of penalties must be received by the Director within 30 days after the date the Department mails the notice that the penalties are due. The request must be in writing and contain competent proof of all pertinent facts supporting a reasonable cause determination. In all cases the burden of proving the facts rests upon the taxpayer.
- C. The Director may cancel the penalties imposed under KMC 3.80.110A one time if a person:
- (1) Is not currently licensed and filing returns,
 - (2) Was unaware of its responsibility to file and pay tax, and
 - (3) Obtained business licenses and filed past due tax returns within 30 days after being notified by the Department.
- D. The Director shall not cancel any interest charged upon amounts due.

3.80.130 Taxpayer quitting business - Liability of successor.

- A. Whenever any taxpayer quits business, sells out, exchanges, or otherwise disposes of his business or his stock of goods, any tax payable hereunder shall become immediately due and payable. Such taxpayer shall, within ten (10) days thereafter, make a return and pay the tax due.
- B. Any person who becomes a successor shall become liable for the full amount of any tax owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due to the city from the taxpayer until such time as: 1) the taxpayer shall produce a receipt from the City showing payment in full of any tax due or a certificate that no tax is due, or 2) more than six (6) months has passed since the successor notified the Director of the acquisition and the Director has not issued and notified the successor of an assessment.
- C. Payment of the tax by the successor shall, to the extent thereof, be deemed a payment upon the purchase price. If such payment is greater in amount than the purchase price, the amount of the difference shall become a debt due such successor from the taxpayer.
- D. Notwithstanding the above, if a successor gives written notice to the Director of the acquisition, and the Department does not within six (6) months of the date it received the notice issue an assessment against the taxpayer and mail a copy of that assessment to the successor, the successor shall not be liable for the tax.
- E. Each person's account will remain on an active status and be subject to all license fees and penalties until such time as the director is notified in writing that the person has discontinued business activity within the City.

3.80.140 Administrative appeal – Judicial review.

- A. Any person, except one who has failed to comply with KMC 3.80.060, aggrieved by the amount of the fee or tax determined by the Director to be required under the provisions of this chapter may pay the amount due and appeal such determination to the hearing examiner by filing a written notice of appeal in accordance with KMC 19.30.070, 19.30.080, 19.30.090, and 19.30.100. The notice of appeal, and the appeal fee in the amount established by Resolution of the City of Kenmore must be filed with the City Clerk within fourteen (14) days of the issuance of the Director's decision determining the amount of the fee or tax.
- B. Any party aggrieved by the decision of the hearing examiner may obtain judicial review of the hearing examiner's decision by applying for a writ of review in the King County Superior Court within twenty-one (21) days of the date of the hearing examiner's decision in accordance with the procedure set forth in Chapter 7.16 RCW, other applicable law, and court rules.

3.80.160 Director to make rules.

The Director shall have the power, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions of this chapter and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

3.80.170 Ancillary allocation authority of Director.

The Director is authorized to enter into agreements with other Washington cities which impose an "eligible gross receipts tax":

- A. To conduct an audit or joint audit of a taxpayer by using an auditor employed by the City of Kenmore, another city, or a contract auditor, provided, that such contract auditor's pay is not in any way based upon the amount of tax assessed;

B. To allocate or apportion in a manner that fairly reflects the gross receipts earned from activities conducted within the respective cities the gross proceeds of sales, gross receipts, or gross income of the business, or taxes due from any person that is required to pay an eligible gross receipts tax to more than one Washington city.

C. To apply the City's tax prospectively where a taxpayer has no office or place of business within the City and has paid tax on all gross income to another Washington city where the taxpayer is located; provided that the other city maintains an eligible gross receipts tax, and the income was not derived from contracts with the City.

3.80.180 Mailing of Notices.

Any notice required by this chapter to be mailed to any taxpayer or licensee shall be sent by ordinary mail, addressed to the address of the taxpayer or licensee as shown by the records of the Director. Failure of the taxpayer or licensee to receive any such mailed notice shall not release the taxpayer or licensee from any tax, fee, interest, or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter. It is the responsibility of the taxpayer to inform the Director in writing about a change in the taxpayer's address.

3.80.190 Tax declared additional.

The license fee and tax herein levied and administered shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of the City except as herein otherwise expressly provided.

3.80.200 Public disclosure - Confidentiality - Information sharing.

A. For purposes of this section defined terms shall be as set forth in KMC 3.80.020 and 3.80.021. In addition:

(1) "Disclose" means to make known to any person in any manner whatever a return or tax information.

(2) "Tax information" means:

(a) A taxpayer's identity;

(b) The nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over assessments, or tax payments, whether taken from the taxpayer's books and records or any other source;

(c) Whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing; or

(d) Other data received by, recorded by, prepared by, or provided to the City with respect to the determination or the existence, or possible existence, of liability, or the amount thereof, of a person under Chapter 3.75 or this chapter of the City code for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material or documents so as to permit its disclosure.

(3) "City agency" means every City office, department, division, bureau, board, commission, or other City agency.

(4) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer.

B. Returns and tax information are confidential and privileged, and except as authorized by this section, neither the Director nor any other person may disclose any return or tax information.

C. This section does not prohibit the Director from:

(1) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(a) In respect of any tax imposed under Chapter 3.75 KMC if the taxpayer or its officer or other person liable under this title is a party in the proceeding; or

(b) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding.

(2) Disclosing, subject to such requirements and conditions as the Director prescribes by rules adopted pursuant to KMC 3.80.160, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the Director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the Department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(3) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(4) Disclosing such return or tax information, for official purposes only, to the mayor, the city manager, or city attorney, or to any City agency, or to any member of the city council or their authorized designees dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

(5) Permitting the City's records to be audited and examined by the proper state officer, his or her agents and employees;

(6) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought or where otherwise allowed to be disclosed under this section;

(7) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or

of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of the City;

(8) Disclosing any such return or tax information to the United States department of justice, including the bureau of alcohol, tobacco, firearms and explosives, the department of defense, the immigration and customs enforcement and the customs and border protection agencies of the United States department of homeland security, the United States coast guard, the alcohol and tobacco tax and trade bureau of the United States department of treasury, and the United States department of transportation, or any authorized representative of these federal agencies or their successors, for official purposes;

(9) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(10) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers and the active/closed status of such registrations, state or local business license registration identification and the active/closed status and effective dates of such licenses, reseller permit numbers and the expiration date and status of such permits, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business; except that this subsection may not be construed as giving authority to the City or any recipient to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(11) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

(12) Disclosing such return or tax information to the United States department of agriculture, or successor department or agency, for the limited purpose of investigating food stamp fraud by retailers;

(13) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the City for a filed tax warrant, judgment, or lien against the real property;

(14) Disclosing to a person against whom the Department has asserted liability as a successor under KMC 3.80.130 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

(15) Disclosing real estate excise tax affidavit forms filed under Chapter 3.25 of the City code in the possession of the City, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax; and

(16) Disclosing such return or tax information to the court or hearing examiner in respect to the City's application for a subpoena if there is probable cause to believe that the records in possession of a third party will aid the Director in connection with its official duties under this title or a civil or criminal investigation.

D. (1) The Director may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection D. The disclosure must be in connection with the Department's official duties under this Title, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The Department may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or

checks. However, the Department may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's work papers, income tax returns, state tax returns, tax return work papers, or other similar data, materials, or documents.

(2) Before disclosure of any tax return or tax information under this subsection D, the Director must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The Director may not disclose any tax return or tax information under this subsection D until the time period allowed in subsection D.3 of this section has expired or until the court has ruled on any challenge brought under subsection D.3 of this section.

(3) The person in possession of the data, materials, or documents to be disclosed by the department has twenty days from the receipt of the written request required under subsection D.2 of this section to petition the superior court of the county in which the petitioner resides for injunctive relief. The court must limit or deny the request of the Director if the court determines that:

- (a) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;
- (b) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or
- (c) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(4) The Director must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(5) Requesting information under subsection D.2 of this section that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

E. Service of a subpoena issued by the court or does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena issued by the court may disclose the existence or content of the subpoena to that person's legal counsel.

F. Any person acquiring knowledge of any return or tax information in the course of his or her employment with the City and any person acquiring knowledge of any return or tax information as provided under subsections C (4), (5), (6), (7), (8), (9), or (11) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the City, such person must forfeit such office or employment and is incapable of holding any public office or employment in this City for a period of two years thereafter.

3.80.210 Tax constitutes debt.

Any license fee or tax due and unpaid under this chapter, and all interest and penalties thereon, shall constitute a debt to the City of Kenmore and may be collected in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

3.80.220 Unlawful actions - Violation - Penalties.

A. It shall be unlawful for any person liable for fees or taxes imposed or administered under this chapter (or other chapters as listed):

- (1) To violate or fail to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the Director;
- (2) To make any false statement on any license application or tax return;
- (3) To aid or abet any person in any attempt to evade payment of a license fee or tax;
- (4) To fail to appear or testify in response to a subpoena issued by the City's hearing examiner;
- (5) To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter.

B. Violation of any of the provisions of this chapter is a gross misdemeanor. Any person convicted of a violation of this chapter may be punished by a fine not to exceed \$1,000, imprisonment not to exceed one year, or both fine and imprisonment. Penalties or punishments provided in this chapter shall be in addition to all other penalties provided by law.

C. Any person, or officer of a corporation, convicted of continuing to engage in business after the revocation of a license shall be guilty of a gross misdemeanor and may be punished by a fine not to exceed \$5,000, or imprisonment not to exceed one year, or both fine and imprisonment.

3.80.230 Suspension or Revocation of business registration.

The City Manager, or designee, shall have the power and authority to suspend or revoke any business license or registration in accordance with Title 5 of the City code.

3.80.240 Closing agreement provisions.

The Director may enter into an agreement in writing with any person relating to the liability of such person in respect of any tax imposed by any of the chapters within this title and administered by this chapter for any taxable period(s). Upon approval of such agreement, evidenced by execution thereof by the Director and the person so agreeing, the agreement shall be final and conclusive as to the tax liability or tax immunity covered thereby, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

- A. The case shall not be reopened as to the matters agreed upon, or the agreement modified, by the Director or the taxpayer, and
- B. In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

3.80.250 Charge-off of uncollectible taxes.

The Director may charge off any tax, penalty, or interest that is owed by a taxpayer, if the Director reasonably ascertains that the cost of collecting such amounts would be greater than the total amount that is owed or likely to be collected from the taxpayer.

Section 2. **Severability.** Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by State or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. **Effective Date.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

APPROVED by the City Council this 22nd day of February, 2016.

David Baker, Mayor

ATTEST/AUTHENTICATED:

Patty Safrin, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

Rod Kaseguma, City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.