



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 Special & Regular Meeting Agenda

6:00 p.m., Monday, April 18, 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. 6:00 p.m. - CALL SPECIAL MEETING TO ORDER

II. EXECUTIVE SESSION

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

III. POSSIBLE ACTION RELATING TO EXECUTIVE SESSION

IV. ADJOURN SPECIAL MEETING

V. 7:00 p.m. - CALL REGULAR MEETING TO ORDER

VI. ROLL CALL

VII. FLAG SALUTE

VIII. AGENDA APPROVAL

IX. PROCLAMATION

- A. Proclamation Honoring Thomas J. (Tom) Traeger
[Proclamation](#)

X. 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.

XI. CONSENT AGENDA

- A. Adopt Minutes for the March 21, March 28, and April 7, 2016 City Council Meetings

[DRAFT 03 21 2016 Minutes](#)

[DRAFT 03 28 2016 Minutes](#)

[DRAFT 04 07 2016 Minutes](#)

- B. The following checks and electronic payments are approved for payment:
Total Check Numbers 34083 through 34179 - \$1,630,617.25
Total Payroll Check Numbers 8519 through 8520 - \$2,220.81
Total Payroll Electronic Deposits Dated 3/18/2016 - \$71,897.25
[Checks & Electronic Payments](#)
- C. Adopt Resolution Nos. 16-273 Through 16-277, Authorizing Grant Applications for Park Development Funding Assistance for Squires Landing, Rhododendron and St. Edward Parks
[Agenda Bill & Attachments](#)
- D. Approve Contract No. 16-1503 for Construction of the Log Boom Park Pedestrian Bridge Project
[Agenda Bill](#)
- E. Increase Contract Contingency for Skyward Construction, Contract No. 15-C1462, for Construction of the Town Green Project
[Agenda Bill](#)
- F. Approve Amendment No. 4 to Contract No. 14-C1324 with Hewitt Architects for the Town Green Project
[Agenda Bill](#)

XII. PUBLIC HEARING

- A. Public Hearing on a Motion to Allow Indoor Storage as a Temporary Use for Up to a One-Year Period to Property Located at 15036 79th Avenue NE, which is owned by the Northshore Fire District and Zoned Public/Semi-Public, Subject to Conditions - Nancy Ousley, Assistant City Manager, and Bryan Hampson, Development Services Director
[Agenda Bill & Attachments](#)

XIII. BUSINESS AGENDA

- A. Approve Motion to Allow Indoor Storage as a Temporary Use for Up to a One-Year Period to Property Located at 15036 79th Avenue NE, which is owned by the Northshore Fire District and Zoned Public/Semi-Public, Subject to Conditions - Nancy Ousley, Assistant City Manager, and Bryan Hampson, Development Services Director

(See Public Hearing for Agenda Bill & Attachments)

- B. Adopt Ordinance No. 16-0419, Providing for the Establishment of Maximum Periods of Parking on City Streets and in City-Owned Parking Lots - Leslie Harris, Community Relations Manager/Policy Analyst

[Agenda Bill & Attachments](#)

- C. January 2016 Financial Report Presentation - Joanne Gregory, Finance & Administration Director
[Agenda Bill & Attachment](#)
- D. Transportation Impact Fee and Concurrency Update and Discussion - Kris Overleese, Public Works Director/City Engineer, and Debbie Bent, Community Development Director
[Agenda Bill & Attachments A & B](#)
[Attachment C](#)
[Attachment D](#)
- E. Review of Recent Amendments to State Marijuana Statutes and Council Direction on Proposed Amendments to Kenmore's Marijuana Rules - Debbie Bent, Community Development Director, and Lauri Anderson, Senior Planner
[Agenda Bill & Attachments 1 & 2 \(Maps\)](#)
[Attachment 3 \(Ord. No. 14-0384\)](#)
[Attachment 4, Part 1 \(2SSB 5052\)](#)
[Attachment 4, Part 2 \(2SSB 5052\)](#)
[Attachment 5, Part 1 \(2E2 SHB 2136\)](#)
[Attachment 5, Part 2 \(2E2 SHB 2136\)](#)
- F. Approve Contract No. 16-C1543, Grant Funding Agreement with the Washington State Recreation and Conservation Office (RCO) for the Moorlands Park Renovation Project - Debbie Bent, Community Development Director
[Agenda Bill & Attachments](#)

XIV. CITY MANAGER REPORT**XV. CITY COUNCILMEMBER COMMENTS, REPORTS & INITIATIVES****XVI. ADJOURNMENT****Upcoming Meetings:**

Tues., April 19, 2016 7:00 p.m. Planning Commission Regular Meeting
Mon., April 25, 2016 7:00 p.m. City Council Regular Meeting
Mon., April 25, 2016 8:30 p.m. Transportation Benefit District Regular Board Meeting

**City of Kenmore
Proclamation**

**Honoring Thomas Joseph Traeger
1936-2016**

WHEREAS, the City of Kenmore lost a valued community leader, activist, and volunteer on March 4, 2016, with the death of Thomas Joseph “Tom” Traeger; and

WHEREAS, Tom Traeger was known as the “founding father” of the Kenmore Heritage Society, which he organized in 1998, served five years as its first president, and was honored by the society in 2005 with a McMaster Heritage Award for exceptional community service; and

WHEREAS, Tom Traeger was the driving force behind publication of the award-winning history book Kenmore by the Lake: A Community History; and

WHEREAS, Tom Traeger planted the seed for the idea of a “History Path” at Log Boom Park and worked with a team to bring the project to fruition; and

WHEREAS, Tom Traeger was a volunteer in an assortment of other civic organizations, including the Northshore Kiwanis Club and the Kenmore Art Show, and worked for the betterment of Kenmore and the surrounding Northshore area; and

WHEREAS, Tom Traeger was a mentor, role model, and advisor to many whose lives he touched during his 30-year career, both as a teacher and in several administrative roles, including that of assistant superintendent, with the Shoreline School District; and

WHEREAS, late in life Tom became a painter in water colors and acrylics, and his artwork has appeared in Kirkland’s Park Gallery, at the Kenmore Art Show, at Alexa’s Café in Bothell; and

WHEREAS, Tom Traeger was known as someone you could depend on, someone who got things done, and someone who enjoyed life and was known for his quick wit,

NOW, THEREFORE, BE IT RESOLVED that the Kenmore City Council, on behalf of the Kenmore community, recognizes the many significant contributions of Tom Traeger both as a professional and as a volunteer-activist, mourns his death, and extends its sincerest condolences to Tom’s widow, Bobbi, his children and grandchildren, and all other members of the Traeger family.

IN WITNESS WHEREOF, signed this 18th day of April, 2016.

Signed: _____
David Baker, Mayor

Attested: _____
Patty Safrin, City Clerk

**City of Kenmore, Washington
City Council Special & Regular Meeting
Minutes
March 21, 2016**

CALL SPECIAL MEETING TO ORDER – The Kenmore City Council special meeting was called to order by Mayor David Baker at 6:15 p.m.

EXECUTIVE SESSION

Mayor Baker stated that the executive session, Pursuant to RCW 42.30.110(1)(i), Potential Litigation, will last for approximately 30 minutes and that no action is anticipated.

Mayor Baker adjourned the executive session at 6:50 p.m.

CALL REGULAR MEETING TO ORDER – The Kenmore City Council regular 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, Milton Curtis, Nigel Herbig and Stacey Denuski

Staff present: Rob Karlinsey, City Manager; Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance & Administration Director; Kris Overleese, Public Works Director/City Engineer; Debbie Bent, Community Development Director; Bryan Hampson, Development Services Director; Capital Projects Manager; John Vicente, Capital Projects Manager; Rod Kaseguma, City Attorney; and Patty Safrin, City Clerk

FLAG SALUTE

Mayor Baker led the flag salute.

AGENDA APPROVAL

It was Council consensus to approve the agenda as submitted.

PRESENTATION

Kenmore Flag Presentation – LeRoy Anenson, Mathew Martin, and other Kenmore Heritage Society members were present. Mr. Anenson spoke about the Kenmore flag and Kenmore history book. Mr. Martin gave a brief slide presentation on the development of the Kenmore flag. They distributed gift baskets containing a CD of the flag development and a *Kenmore by the Lake* history book to Councilmembers who were not on the Council the last time the Historical Society made a presentation.

CITIZEN COMMENTS

Matthew Jordan, 24114 Locust Way, Bothell, was present to state that he has a Coho salmon hatchery at his house, and has had it for 17 years. He brought some tiny Cohos and photos of Blueberry Creek. He stated that the creek is a mess, and he is present to ask if Kenmore could help out with improving it.

Elizabeth Mooney, 5934 NE 201st Street, Kenmore, was present to thank the Council for speaking against the demolition of the old Evergreen Point Bridge concrete blocks in Kenmore. She noted that kids at Lockwood Elementary School have collaborated with Matthew Jordan for educational purposes.

Patrick O'Brien, 6330 NE 181st Street, Kenmore, was present to state his concern regarding permitting for concrete demolition in Kenmore.

Janet Hays, 6303 NE 181st Street, Kenmore, was present to thank the Council for their support in opposing the demolition of the old SR 520 bridge in Kenmore.

Mayor Baker thanked the citizens for their comments.

CONSENT AGENDA

Councilmember Denuski moved to approve the consent agenda as submitted. Mayor Baker seconded the motion to Adopt the Minutes for the February 29, 2016 City Council Special Meeting. The motion passed unanimously.

BUSINESS AGENDA

West Sammamish River Bridge Architectural Discussion - Kris Overleese, Public Works Director/City Engineer, and John Vicente, Capital Projects Manager, with Kevin Kim, Jacobs Engineering, and Jim Owens, Makers, were present to give a brief report. Capital Projects Manager Vicente gave a PowerPoint presentation, including bridge shape options; options for below the bridge, such as inlays, paint work, and reflective treatments; options for above the bridge, such as seaplane theme, heron theme, boating theme, or traditional rectilinear; and proposed bridge layout. He stated that the next steps include preparing more detailed renderings based on Council feedback and bringing them back to Council, and an open house in summer 2016. Vincente reviewed what the City's grant funding could pay for. Grant funding would not pay for any improvements to the East Bridge. They were also available to answer any questions.

Development Services 2015 Year-in-Review Report - Bryan Hampson, Development Services Director, was present to review the 2015 Development Services report. He was also available to answer any questions.

December 2015 Financial Report for the City of Kenmore, Washington - Joanne Gregory, Finance & Administration Director, was present to review the December 2015 Financial report. She was also available to answer any questions.

It was Council consensus to receive and file the December 2015 Financial Report.

STAFF REPORT

City Manager Karlinsey stated that the Legislative Delegation Thank You Event is Tuesday, April 5th at 6:00 p.m., and that a joint meeting with Lake Forest Park and the Northshore Fire Department is scheduled for May 16th or 17th. Next week, on April 30th and 31st, the Washington State Parks Commission is meeting in Tumwater, and the St. Edward ball field and seminary building projects will both be discussed at that time. Our landscape architect for the ball fields, Bruce Dees, is arranging for City staff and State Parks Commissioners to go to a sports complex in Tacoma on the evening of April 29th to see firsthand the latest LED, nonspillage lighting.

CITY COUNCILMEMBER REPORTS & COMMENTS

Councilmember Smith stated that the city manager did fine job with the State of the City address last week.

Mayor Baker stated that he received a request from the Senior Center for new picnic tables or to refinish the existing ones. He urged Councilmembers and staff to go to the Sound Cities Association dinner meeting at Inglemoor on March 30th. He and Councilmember Herbig were at the light rail opening on Friday and heard a lot of favorable comments on our proposed ST3 projects.

ADJOURNMENT

Mayor Baker adjourned the regular meeting at 8:55 p.m.

David Baker, Mayor

ATTEST:

Patty Safrin, City Clerk

**City of Kenmore, Washington
City Council Regular Meeting
Minutes
March 28, 2016**

CALL TO ORDER – The Kenmore City Council meeting was called to order by Mayor David Baker at 7:00 p.m.

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

Staff present: Rob Karlinsey, City Manager; Kris Overleese, Public Works Director/City Engineer; Debbie Bent, Community Development Director; Leslie Harris, Management Analyst; John Vicente, Capital Projects Manager; Lauri Anderson, Senior Planner; Cliff Sether, Police Chief; Rod Kaseguma, City Attorney; and Patty Safrin, City Clerk

FLAG SALUTE

Sheri Baker led the flag salute.

AGENDA APPROVAL

It was Council consensus to approve the agenda as submitted.

PRESENTATION

Kenmore Waterfront Activities Center (KWAC) Report - Duncan Cox and Sheri Baker were present. Cox stated that the program will ideally have about 30 kids this year and that the dragon boat club is the biggest success so far. They have added standup paddle board for this year, and there will be classes on water and boat safety. He stated that Debra Srebnick is working with the Pocock Foundation regarding rowing opportunities at Rhododendron Park. The group is looking to build the kayaking program, and their goal as a group is to get people in the water safely. He thanked the Council for their support. Sheri Baker stated that she recently put e-flyers out in the School District and packets at the elementary schools and the junior high. She noted that they are planning a couple of events, including an awakening ceremony with the dragon boat, and an all hand-powered watercraft race from Redmond to Kenmore on the 21st of May.

PROCLAMATION

Volunteer Appreciation Month, April 2016

Mayor Baker read the proclamation into the record and presented it to Leslie Harris, Management Analyst.

CITIZEN COMMENTS

Elizabeth Mooney, 5934 NE 201st Street, Kenmore, was present to thank the Council for their support in opposition to the SR520 bridge demolition in Kenmore, and to note that the public comment period for that work ends on April 1st.

Janet Hayes, 6303 NE 181st, Kenmore, was present to say that the SR520 bridge demolition hearing that she had heard about will take place in Bellevue, and that some citizens are attempting to get it changed to Kenmore.

City Manager Karlinsey stated that the City would like to ask for an extension of the public comment period, as well as a hearing, regarding the SR520 bridge demolition work.

Mayor Baker thanked the citizens for their comments.

CONSENT AGENDA

Councilmember Laurie Sperry moved to approve the consent agenda as submitted. Deputy Mayor Van Ness seconded the motion to the Adopt Minutes for the March 14, 2016 City Council Meeting; Approve the Following Checks and Electronic Payments for Payment: Total Check Numbers 34000 through 34082 in the Amount of \$563,483.90, and Total Electronic Deposits Dated 3/4/2016 in the Amount of \$75,614.06; and Authorize the City Manager to Execute an Interlocal Agreement with Lake Forest Park, Contract No. 16-C1538, for SR 522/523 Consultant Costs. The motion passed unanimously.

PUBLIC HEARING

Ordinance No. 16-0418, Proposed Changes to the Public Agency Utility Exception (PAUE) to the City's Critical Areas Regulations in KMC 18.55 - Debbie Bent, Community Development Director, and Lauri Anderson, Senior Planner, were present to give a brief report. Director Bent gave a history of bringing this ordinance to Council, stating that this is the second public hearing. Senior Planner Anderson summarized the PAUE and stated that the reason for this Ordinance is to clarify the original intent of the provision. She stated that five e-mailed comments, all in opposition to the Ordinance, were submitted today for the public hearing. She clarified that all the e-mails stated that the PAUE could be used by private developers, but in fact it can only be used by a public agency or a utility. She gave some broad details of the proposed amendments. They were also available to answer any questions.

Mayor Baker opened the public hearing to receive public testimony on this issue at 7:23 p.m.

The following citizens spoke:

Janet Hays, 6303 NE 181st Street, Kenmore, was present to ask whether any of the other jurisdictions that have used the PAUE have State parks. She also asked if this has anything to do with PSE franchise negotiations.

Elizabeth Mooney, 5934 NE 201st Street, stated her concerns regarding the proposed changes to the PAUE to the City's critical areas regulations.

Anne Anderson, 16304 81st Place NE, Kenmore, stated her concerns regarding the proposed changes to the PAUE to the City's critical areas regulations.

Amy McKendry, Kenmore; Christine Damico, Kirkland; Anne Anderson, Kenmore; Rebecca Hirt; and Judith Finn, Seattle, all submitted testimony via e-mail to state their concerns regarding the proposed changes to the PAUE to the City's critical areas regulations.

As there were no other citizens wishing to be heard, Mayor Baker closed the public hearing at 7:34 p.m.

BUSINESS AGENDA

Adopt Ordinance No. 16-0418, Public Agency Utility Exception (PAUE) Amendments - Debbie Bent, Community Development Director, and Lauri Anderson, Senior Planner, were available to answer any additional questions. Anderson stated that these amendments have nothing to do with the PSE franchise negotiations.

Councilmember Smith moved to Adopt Ordinance No. 16-0418, Public Agency Utility Exception (PAUE) Amendments to the City's Critical Areas Regulations. Mayor Baker seconded the motion. The motion passed 6-1, with Councilmember Herbig voting no.

Time-Limited Parking Discussion - Leslie Harris, Management Analyst, and Cliff Sether, Police Chief, were present to give a brief report. Harris stated that she will present an overview of a draft ordinance for Council discussion. The draft ordinance provides for maximum periods of parking on City streets and in City-owned parking lots. It also adds new KMC sections, unlimited period parking zones, and a section on permit exemption from the maximum parking period.

Harris stated that the goal of the ordinance is to increase the availability of parking on City streets and in City-owned parking lots, particularly at City Hall, at the Town Green site, and for downtown customers. She also gave a more detailed overview of the ordinance. She noted that there would be a notification process before the ordinance goes into effect and that the police would issue only warnings for a week after implementation. She stated that the proposed ordinance would be brought before Council in April. They were available to answer any questions. Kris Overleese, Public Works Director, was also available to answer any questions.

2015 Annual Police Services Report - Cliff Sether, Police Chief, highlighted some areas of the written report. He detailed some federally mandated changes coming up in April that will change the way crimes are reported, and make it look like crime has gone up drastically. He stated, however, that this is a function of the changes, because the reporting will be more detailed. For example, assault will be broken down into a number of categories instead of just one category. It is recommended to go two full years to establish a baseline, and then begin the year-to-year comparisons again. The police department will put some educational materials out to the public. He was also available to answer any questions. City Manager Karlinsey made a few comments regarding the City's police department.

ADA Assessment Update & Presentation - John Vicente, Capital Projects Manager, and Kris Overleese, Public Works Director/City Engineer, were present to give a brief report. Capital Projects Manager Vicente gave a PowerPoint presentation, including American Disabilities Act (ADA) requirements; details of the three-phase approach, in which Phase 1 is right-of-way assessment; the data collection process; results of the assessment; when the City is required to bring things up to compliance; an explanation of Maximum Extent Feasible (MEF); and next steps.

He stated that if a City is not making progress toward federal compliance with these requirements, they may lose any federal funding. Director Overleese stated that the City makes all of our new projects ADA compliant to the maximum extent possible and does retrofits with overlay projects. We are also educating our utility partners when they do work in the City.

City Attorney Kaseguma made some comments regarding compliance with the ADA requirements and timelines for compliance. Overleese stated that she will be coming back to Council within a month or two regarding cleaning up our Code language regarding maintenance of frontage property, such as sidewalks. City Manager Karlinsey noted that interpretations of ADA requirements are changing all the time, which makes it hard to keep up. In fact, we have some ramps that have been recently redone to meet ADA requirements which are now out of compliance.

STAFF REPORT

City Manager Karlinsey stated that tomorrow night he, Mayor Baker and Debbie Bent will meet with several State Parks commissioners at a recreational complex in Tacoma which has the latest technology in ball field lighting. Our landscape architect will be there as well. On Thursday they will go before the WA State Parks Commission. They will give a presentation at about 2 p.m. that day. He noted that this is Council's last regular meeting until April 18th. He mentioned the special thank you event for our State Legislative Delegation on Tuesday, April 5th, and a 522 Transit Now! Coalition meeting this Thursday at 7:00 p.m.

Deputy Mayor Van Ness made a motion to amend the agenda to include Councilmember Reports and Comments. Mayor Baker seconded the motion. The motion passed unanimously.

CITY COUNCILMEMBER REPORTS & COMMENTS

Deputy Mayor Van Ness discussed a book he recently read on classification of workers and how they contribute to the economy. According to his reading, the way we run the business incubator and promote fun in the City, as well as other things the City is doing, contribute to fostering the creative workers in an economy.

Mayor Baker stated that he went to an ST3 meeting last Friday and that Kenmore's asks are still in the running. He attended the Executive State of the County today, and suggested they hold it in Kenmore next year. He reminded Council about the Wednesday, March 30th networking dinner at Inglewood.

ADJOURNMENT

Mayor Baker adjourned the regular meeting at 9:02 p.m.

David Baker, Mayor

ATTEST:

Patty Safrin, City Clerk

**City of Kenmore, Washington
City Council Special Meeting
Minutes
April 7, 2016**

CALL SPECIAL MEETING TO ORDER – The Kenmore City Council meeting was called to order by Mayor David Baker at 5:04 p.m.

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

Councilmembers excused: Councilmembers Laurie Sperry, Milton Curtis and Nigel Herbig

Staff present: Nancy Ousley, Assistant City Manager; Bryan Hampson, Development Services; and Patty Safrin, City Clerk

MOTION AUTHORIZING INITIATING A LAWSUIT REGARDING ENFORCEMENT OF HEARING EXAMINER’S ORDER HEA-2016-01 AND P2015-024

Councilmember Denuski moved that the City Attorney be authorized to file a lawsuit in King County Superior Court, and to take all necessary related actions, to implement, collect, and enforce the actions, violations, rights, remedies, fines and penalties of the Hearing Examiner’s Order in “In the Matter of the Appeal of Owen Benson of a Notice of Violation, No. HEA-2016-01 and No. P2015-024.” Deputy Mayor Van Ness seconded the motion. The motion passed 4-0.

ADJOURNMENT

Mayor Baker adjourned the special meeting at 5:06 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: 34083 through 34179 \$ 1,630,617.25

Total Payroll check numbers: 8519 through 8520 \$ 2,220.81

Total Payroll electronic deposits dated: 3/18/2016 \$ 71,897.25

 _____ City Manager	<u>3-28-16</u> _____ Date
 _____ Finance Director	<u>3/28/16</u> _____ Date

Check #	Vendor Name	Description	Check Amount
34083	WASHINGTON CITY/COUNTY MGMT ASSOC	Membership for Nancy Ousley	315.00
34084	MAGEE, STEVEN	Refund Overpaid Permit Fees	49.44
34085	NATIONWIDE FINANCIAL 401a	Social Security Replacement Plan	12,315.23
34086	NATIONWIDE RETIREMENT SOLUTIONS 457	Deferred Comp Payroll Deduction	595.00
34087	ICMA RETIREMENT TRUST 457 - 304745	Deferred Comp Payroll Deduction	3,053.81
34088	DRS 457	Deferred Comp Payroll Deduction	1,160.00
34089	AFLAC	Private Medical/ Disability Plans	348.94
34090	CITY OF KENMORE FS	Flexible Spending Medical Plans	196.38
34091	BANK OF AMERICA 941	Payroll Taxes	14,744.06
34092	DEPARTMENT OF RETIREMENT SYSTEMS	WA State Retirement	17,746.14
34093	DEPARTMENT OF LABOR AND INDUSTRIES	Worker's Compensation	2,274.99
34094	UNITED WAY OF KING COUNTY	Employee Charitable Contribution	442.00
34095	NATIONAL LIFE OF VERMONT	Life Insurance	123.17
34096	AMERICAN GENERAL LIFE GPO-400S	Life Insurance	432.17
34097	STATE OF FLORIDA DISBURSEMENT UNIT	Payroll Deduction	275.00
34098	HSA BANK	Employee Health Savings Acct. Contribution	80.76
34099	LINCOLN NATIONAL LIFE INSURANCE	Life/Long Term Disability/AD&D	897.24
34100	AWC EMPLOYEE BENEFITS	Employee Health Insurance	45,470.52
34101	BAKER, DAVID	Mileage Reimbursement	111.78
34102	BRUCE DEES & ASSOCIATES	16-C1496 February St. Edward Ballfield Design	8,700.00
34103	CITY OF BELLEVUE	2016 SPP & eCityGov Annual Membership	31,802.00
34104	CITY OF LAKE FOREST PARK	February Public Works Crew/Equipment	73,967.38
34105	COASTWIDE LABORATORIES	City Hall Maintenance Supplies	626.64
34106	DAILY JOURNAL OF COMMERCE	Ads for Bids for Log Boom Park Pedestrian Bridge	871.65
34107	DURRANT, JEFF	Travel Advance/Per Diem for Police Training	178.50
34108	FERGUSON ENTERPRISES INC #1539	Catch Basin & Surface Water Repair Parts	1,056.02

34109	FRUHLING SAND & TOPSOIL	Debris Dumping & Gravel for Twedt/Squires	1,639.04
34110	CALPORTLAND COMPANY	Twedt Property Gravel Pad	293.42
34111	KING COUNTY FINANCE	February ROW Dump Fees	95.76
34112	SOUND PUBLISHING, INC.	Ads for Business Directory & Odor Complaints	1,633.87
34113	KING COUNTY TREASURY	Property Taxes for 35 Parcels	4,795.76
34114	MR. T'S TROPHIES	Employee Nameplates & Name Tags	37.72
34115	NORTHSHORE UTILITY DIST	February Vehicle Maintenance & Fuel	1,776.76
34116	HONEY BUCKET	2/27-3/25 Rental @ Twedt/Squires Landing	218.35
34117	OFFICE DEPOT	Office Supplies	495.97
34118	OGDEN, MURPHY, WALLACE	Feb. St. Edward Ballfields Professional Services	2,015.00
34119	PACIFIC TOPSOILS	Green Waste & Supplies	272.45
34120	PEOPLES STORAGE	April Storage Unit Rent #C304	201.00
34121	PUGET SOUND ENERGY	2/13-3/15 Electricity/Street Lights/Signals/Gas	10,979.60
34122	PUGET SOUND ENERGY	SR522 West A Signal Connection	492.00
34123	CEMEX	Asphalt for Catch Basin & Pothole Repairs	281.23
34124	SEATTLE TIMES	Ad for Bids - Log Boom Park Pedestrian Bridge	822.87
34125	TOTAL LANDSCAPE CORP	March Parks Landscape Maintenance	5,867.66
34126	BERK & ASSOCIATES	Feb. Svcs/Parks & Transportation Improvements	19,302.89
34127	ARTS OF KENMORE	Kamishibai Exhibit 2/5-3/1/16	950.00
34128	SNOHOMISH COUNTY	February Vactor Waste Disposal	416.00
34129	KONICA MINOLTA BUSINESS SOLUTIONS	Feb. Incubator & KBA Copier Leases/Copy Fees	694.26
34130	BANNER BANK LD	Supplies/Volunteer Event Entertainment	764.32
34131	BANNER BANK CS	Food/Refreshments for Teen Dance	493.81
34132	HDR ENGINEERING, INC	1/24-2/20 13-C1214 SR522 West A Prof. Svcs.	96,178.09
34133	BANNER BANK DB	Open House Supplies	36.98
34134	BANNER BANK NO	Meals/Supplies/Dues/Business Directory	840.34
34135	BANNER BANK JG	Certification/Supplies/Advertising	402.40
34136	BANNER BANK KENMORE	Registration/Advertising/Supplies	708.00
34137	BANNER BANK KENMORE	Training Materials/Computer Equipment	1,325.74
34138	INGLEWOOD GOLF COURSE	Volunteer Banquet	1,248.30
34139	A+ CONFERENCING	Conference Calls	24.40
34140	BANNER BANK JGORDON	Screen for Workstation	172.79
34141	ZONAR SYSTEMS	Street Sweeper Maintenance/De-Icer	525.33
34142	COMCAST	3/14-4/13 City Hall Internet/Cable	288.66
34143	TOWN CENTER HARDWARE	February Paint/Parts/Supplies	229.50
34144	INTEGRA TELECOM	3/8-4/7/16 City Hall Phone Service	894.53
34145	PHSI PURE HEALTH SOLUTIONS INC.	City Hall Filtered Water Service	100.63
34146	FRONTIER	2/28-3/27 City Hall & Elevator Phone Services	1,056.52
34147	PAWS	February Animal Sheltering Service	175.00
34148	INDEPENDENT STATIONERS	Office Supplies	75.77
34149	SCHINDLER ELEVATOR CORPORATION	Elevator Maintenance	1,143.18
34150	BANNER BANK BH	Training Registration/Parking Stickers	493.96
34151	PERTEET INC.	12-C1082 February On Call Engineering Services	23,727.79
34152	BANNER BANK VAN NESS	Registration/Lodging/Transportation	1,076.23
34153	BANNER BANK BAKER	Conference Registration/Airfare/Lodging	1,001.47
34154	GREATER BOTHELL CHAMBER OF COMMERCE	State of the City Table Sponsorship	700.00
34155	JOYCE ZIKER PARKINSON	February Legal Advice for Kenmore Village	177.50
34156	BANNER BANK PS	Wellness Supplies	39.13
34157	WAGE WORKS	Feb. Flexible Spending Plan Administrative Fee	50.00
34158	KENMORE COMMERCIAL LLC	Incubator Bldg. Rent for April	3,281.00

34159	CULLEY, AMBERLY	Mural Proj 1/2 Supplies & 1st Part City Matching	2,600.63
34160	NORTHWEST LANDSCAPE SERVICES	March SR522 ROW Landscaping	1,199.81
34161	ARC - PACIFIC NORTHWEST	Kenmore Town Green Digital Posting/Advertising	2,711.51
34162	HESTON VISUAL ARTS	State of the City Photography	219.00
34163	WA ASSOC OF PUBLIC RECORDS OFFICERS	Spring Conference Training Registration	175.00
34164	SCORE	February Inmate Housing	27,405.00
34165	HEWITT	1/1-2/26 14-C1324 Town Green Prof. Services	18,488.31
34166	METROPOLITAN TRANS. COMMISSION	5/1/16-4/30/17 Pavement Mgmt. Software	1,500.00
34167	STARDOM SERVICES, INC.	March Incubator Building Janitorial Service	510.00
34168	RICHMOND AMERICAN HOMES OF WA	Refund of Overpaid Permit Fees	47.00
34169	MARSHBANK CONSTRUCTION	1/26-2/25 14-C1328 SR522 West A Construction	871,628.13
34170	GRINDLINE SKATEPARKS INC.	Pay Out Retention Funds for Skate Park Work	12,850.01
34171	KPFF CONSULTING ENGINEERS	15-C1414 Jan. 62nd Ave Corridor Improvements	6,802.90
34172	COAST & HARBOR ENGINEERING	Nov-Feb Log Boom/Squires Landing Improvements	45,547.36
34173	SITTS & HILL ENGINEERS, INC.	Feb. Rhododendron Park & Squires Landing Svcs.	3,057.00
34174	SKYWARD CONSTRUCTION	Feb. Town Green Construction Svcs 15-C1462	220,095.00
34175	ADMAN, STACI	Mural Proj 1/2 Supplies & 1st Part City Matching	2,600.63
34176	BANNER BANK RK	Business Meeting Meals	105.25
34177	KRAZAN & ASSOCIATES, INC.	15-C1480 Feb. Town Green Services	2,885.00
34178	SALTER, JON	Travel Advance/Per Diem for Police Training	178.50
34179	WASHINGTON ARCHITECTURAL HARDWARE	City Hall Door Hardware & Repairs	1,664.41
8519	BUNJONG. BRITTANEY	Payroll Check	482.18
8520	STANTON, ANN	Payroll Check	1,738.63
3/18/2016	PAYROLL	Direct Deposit	71,897.25
			<u><u>\$1,704,735.31</u></u>

2016	PRIOR VENDOR ACTIVITY	TOTAL	FOR 2016
	A+ CONFERENCING		191.24
	ACTION ENTERTAINMENT		395.00
	ACTIVE SHOOTER TRAINING LLC		1,425.00
	ADMAN, STACI		1,916.25
	AFLAC		697.88
	ALCALDE & FAY		5,023.37
	ALLPLAY SYSTEMS LLC		58.04
	ALPHAGRAPHICS US718		342.13
	ALTA MAXINE MELVIN		14,674.00
	AM TEST, INC		625.00
	AMERICAN GENERAL LIFE GPO-400S		864.34
	AMERICAN PLANNING ASSOCIATION		1,661.00
	AMERICAN PUBLIC WORKS ASSOCIATION		1,225.00
	AMERICAN SOCIETY OF CIVIL ENGINEERS		225.00
	APPLIED CONCEPTS, INC.		2,734.76
	ARTS OF KENMORE		950.00
	ASSOCIATION OF WA CITIES		16,890.04
	AURORA RENTS		1,095.62
	AV CAPTURE ALL		4,718.57
	AWC EMPLOYEE BENEFITS		94,279.81
	BAKER, DAVID		1,214.46
	BANK OF AMERICA 941		61,190.00
	BANNER BANK BAKER		1,596.86
	BANNER BANK BH		267.98
	BANNER BANK CS		559.08
	BANNER BANK JG		570.94
	BANNER BANK JGORDON		120.49
	BANNER BANK KENMORE		2,953.25
	BANNER BANK LD		673.06
	BANNER BANK NO		276.11
	BANNER BANK PS		596.97
	BANNER BANK RK		2,174.08
	BANNER BANK VAN NESS		611.00
	BARTLETT TREE EXPERTS		394.20
	BASTYR UNIVERSITY		50,000.00
	BELLEVUE COLLEGE		219.12
	BERK & ASSOCIATES		19,101.52
	BEST BUY BUSINESS ADVANTAGE ACCOUNT		21,943.51
	BRIEN, GAYLYNN		150.00
	BRUCE DEES & ASSOCIATES		32,625.00
	BULGER SAFE & LOCK, INC.		110.48
	CALPORTLAND COMPANY		248.44
	CASCADE PEST CONTROL		142.35
	CEMEX		666.66
	CITY OF BELLEVUE		3,662.96
	CITY OF KENMORE FS		785.52
	CITY OF LAKE FOREST PARK		172,830.53
	CITY OF SHORELINE		804.32
	CITY OF TACOMA		40.00
	COASTAL WEAR PRODUCTS INC		1,356.71

XI. B. The following checks and electronic payments are appr...

COASTWIDE LABORATORIES	898.61
CODE PUBLISHING COMPANY	2,435.65
COLUMBIA RIDGE LANDFILL	2,280.73
COMCAST	1,009.38
CONSOLIDATED PRESS	2,989.34
CULLEY, AMBERLY	1,916.25
CURTIS, DR. MILTON	60.16
D.R. HORTON	15,000.00
DAILY JOURNAL OF COMMERCE	70.20
DEPARTMENT OF ECOLOGY	13,444.11
DEPARTMENT OF LABOR AND INDUSTRIES	4,471.38
DEPARTMENT OF RETIREMENT SYSTEMS	72,119.52
DEVRIES, DENIS	115.59
DRS 457	7,440.00
ECONOMIC DEV COUNCIL OF SEATTLE/KC	5,000.00
EJ USA, INC.	1,416.62
EMERALD FIRE LLC	289.08
EMPLOYMENT SECURITY DEPT	6,874.73
ENVIRONMENTAL SYSTEMS RESEARCH INST	5,694.00
EVERGREEN PRINT SOLUTIONS	715.24
EVERGREEN SAFETY COUNCIL	299.00
FERGUSON ENTERPRISES INC #1539	800.53
FIRE SYSTEMS WEST, INC.	273.75
FLEMINGS HOLIDAY LIGHTING LLC	1,394.66
FRONTIER	2,074.10
FRUHLING SAND & TOPSOIL	416.33
GALLATIN PUBLIC AFFAIRS	7,050.19
GORDON THOMAS HONEYWELL	7,531.67
GOVDELIVERY, INC.	11,025.00
GRAINGER	193.68
GREATER BOTHELL CHAMBER OF COMMERCE	1,900.00
GROUP FOUR INC.	5,075.00
HANSEN, COREY	6,850.00
HDR ENGINEERING, INC	80,660.32
HERBIG, NIGEL	61.56
HEWITT	27,421.53
HONEY BUCKET	436.70
HOPKINS, CRAIG	253.80
HORIZON DISTRIBUTORS INC	116.99
HSA BANK	323.04
IAP2 PUGET SOUND CHAPTER	1,550.00
ICMA RETIREMENT TRUST 457 - 304745	11,915.24
INDEPENDENT STATIONERS	282.31
INSLEE, BEST, DOEZIE & RYDER, P.S.	41,385.21
INTEGRA TELECOM	1,804.61
iWORQ SYSTEMS	2,800.00
JACOBS ENGINEERING GROUP	38,652.40
JD PLUMBING & FIRE PROTECTION INC.	214.03
JET CITY PRINTING	1,522.60
JOYCE ZIKER PARKINSON	5,547.50
KARLINSEY, ROB	80.42
KBA INC.	19,550.20

KCDA PURCHASING COOP	1,693.69
KENMORE COMMERCIAL LLC	6,986.19
KENMORE HERITAGE SOCIETY	50.00
KIMBERLY LANE 9, LLC	1,145.82
KING COUNTY FINANCE	69,529.65
KING COUNTY FINANCE W.L.R.D.	2,338.67
KING COUNTY FINANCE/ GIS	2,621.11
KING COUNTY FLEET ADMIN	235.00
KING COUNTY MUNICIPAL CLERKS ASSOC	25.00
KING COUNTY RADIO COMM SERVICES	283.61
KING COUNTY SHERIFF	20,775.73
KINGS HEATING	28.84
KONICA MINOLTA BUSINESS SOLUTIONS	1,552.21
KORTE, BRENT	27.61
KRAZAN & ASSOCIATES, INC.	5,190.00
LANGTON SPIETH, LLC	8,000.00
LANGUAGE LINE SERVICES, INC.	4.83
LIGHTHOUSE CONSULTING INC	11,609.90
LINCOLN NATIONAL LIFE INSURANCE	1,860.77
MAIL FINANCE	703.00
MARSHBANK CONSTRUCTION	729,993.06
MILLER STEPHENS, MARY	3,750.00
MR. T'S TROPHIES	201.75
NATIONAL LIFE OF VERMONT	246.34
NATIONWIDE FINANCIAL 401a	50,261.08
NATIONWIDE RETIREMENT SOLUTIONS 457	1,930.00
NORTHSHORE FIRE DEPT	2,428.00
NORTHSHORE PARK & REC SERVICE AREA	1,360.00
NORTHSHORE ROTARY CLUB	220.00
NORTHSHORE UTILITY DIST	23,242.19
NORTHWEST LANDSCAPE SERVICES	2,399.62
NORTHWEST PLAYGROUND EQUIPMENT INC.	14.97
NORTHWESTERN COLLECTION SERVICE INC	690.00
NRC ENVIRONMENTAL SERVICES, INC.	4,975.10
OFFICE DEPOT	1,559.40
OGDEN, MURPHY, WALLACE	4,192.50
OLYMPIC ENVIRONMENTAL RESOURCES INC	3,713.15
PACIFIC TOPSOILS	143.07
PAMPLIN MEDIA GROUP	190.00
PARAMETRIX INC	1,110.00
PAWS	175.00
PENDLETON, MICHAEL	3,186.34
PEOPLES STORAGE	402.00
PERSONAL BEST/ TOPHEALTH	117.20
PERTEET INC.	26,356.67
PHSI PURE HEALTH SOLUTIONS INC.	100.63
PHSI PURE WATER FINANCE	402.49
PROTECTION TECHNOLOGIES, INC	1,048.87
PRSA	307.00
PUGET SOUND CLEAN AIR AGENCY	17,411.00
PUGET SOUND ENERGY	34,386.85
PUGET SOUND FINANCE OFFICERS ASSOC	50.00

XI. B. The following checks and electronic payments are appr...

QUALITY BUSINESS SYSTEMS INC.	1,686.15
REPUBLIC SERVICES	634.46
RESOURCE EXPLORATION, LLC	12,000.00
RICHARDSON, ZACK	116.00
SARAH ROBERTS	21,247.24
SCORE	29,304.50
SEATTLE TIMES	3,252.78
SELECT AIR SERVICES DBA GREENWOOD	32.14
SESAC	378.00
SHRED-IT USA LLC	173.28
SITEIMPROVE, INC.	2,499.00
SITTS & HILL ENGINEERS, INC.	428.00
SKYWARD CONSTRUCTION	319,902.60
SMITH, BRENT	63.72
SNOHOMISH COUNTY	3,280.00
SOFTWAREONE, INC.	7,702.01
SOUND CITIES ASSOC	13,018.25
SOUND LAW CENTER	4,802.00
SPERRY, LAURIE	64.80
STARDOM SERVICES, INC.	1,020.00
STATE AUDITOR'S OFFICE	575.90
STATE OF FLORIDA DISBURSEMENT UNIT	1,100.00
STEWART MACNICHOLS HARMELL, INC.	15,000.00
SUNGARD PUBLIC SECTOR INC.	12,921.00
TERREBONNE LIMITED	183.19
THE WIDE FORMAT COMPANY	470.85
THOMAS, MICHAEL	223.30
TOPIA TECHNOLOGY/ BIS	600.00
TOTAL LANDSCAPE CORP	10,870.27
TOWN CENTER HARDWARE	54.80
UNITED WAY OF KING COUNTY	884.00
UPS STORE	139.92
US POSTAL SERVICE (HASLER)	4,989.65
UTILITIES UNDERGROUND LOCATION CTR	285.09
VAN NESS, ALLAN	552.44
VAUGHAN, KENT	198.00
VERIZON WIRELESS	3,352.62
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	5,394.25
WAGE WORKS	100.00
WASHINGTON CITY/COUNTY MGMT ASSOC	315.00
WASHINGTON STATE DEPT OF REVENUE	2,667.11
WASHINGTON STATE PATROL	788.11
WELLS FARGO FINANCIAL	2,082.50
WHELHAM, STEPHANIE	250.00
WRIGHT, MARCI	1,500.00
WSU URBAN IPM & PESTICIDE SAFETY	58.00
	<u>\$ 2,721,426.45</u>

XI. B. The following checks and electronic payments are appr...



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

Subject/Topic: Grant Applications for Park Development Funding Assistance Proposed Council Action/Motion: Adopt Resolutions #16-273 through 16-277 authorizing the city to apply for park development grants from the Washington State Recreation and Conservation Office for Squire's Landing, Rhododendron and Saint Edward Parks.	For Council Meeting Agenda of: April 18, 2016 Department: Community Development Prepared by: Ann Stanton and Debbie Bent <u>Initial & Date</u> Approved by Department Head: <u>AS 4/5/16</u> Approved by City Attorney: <u>MA</u> Approved by Finance Director: <u>AS 4/5/16</u> Approved by City Manager: <u>AK</u> Exhibits/Attachments: 1. Resolution No. 16-273: Squires Landing Float Replacement Development Project 2. Resolution No. 16-274: Rhododendron Park Float and Boardwalk Development Project 3. Resolution No. 16-275: Rhododendron Park Float Development Project 4. Resolution No. 16-276: St. Edward State Park Ballfield Renovation Development Project 5. Resolution No. 16-277: St. Edward State park Ballfield Renovation Development Project	
Expenditure Required: \$3,610,000 See Fiscal Consideration below	Amount Budgeted: \$310,783 See Fiscal Consideration below	Appropriation Required: \$3,300,000 See Fiscal Consideration below
<u>INFORMATION/BACKGROUND:</u> At the 4/18/16 Council meeting, staff is requesting Council pass resolutions authorizing the City to apply for five grants from the Washington State Recreation and Conservation Office (RCO). RCO grant applications are on a two-year cycle, in even calendar years. The grant application deadline is 5/2/16. Grant funding assistance is available for eligible park development expenses in a variety of programs from the RCO. Park projects recommended for 2016 grant requests are Squire's Landing float replacement and ADA accessibility improvements, Rhododendron Park float and boardwalk development, and Saint Edward State Park ballfields renovation. City Council authorization is requested to submit applications to the following RCO Grant Programs: 1. Washington Wildlife and Recreation – Water Access (WWRP-WA) Squire's and Rhododendron Parks (See attachments #1 and #2) 2. Aquatic Lands Enhancement Account (ALEA) for the Rhododendron Float (see attachment #3) 3. Washington Wildlife and Recreation – Local Parks (WWRP-LP) for Saint Edward State Park (See attachment #4) 4. Youth Athletic Facilities (YAF) for Saint Edward State Park (See attachment #5)		
<u>FISCAL CONSIDERATION:</u> The City's adopted Park Capital Improvement Program (CIP) includes budget for the Squires Landing Float (\$165,783) and Rhododendron Park Float (\$145,000) for permitting, design and construction. Staff will need to bring back a future CIP budget amendment (total \$3,300,000) to include the Rhododendron Park boardwalk project (\$800,000) and St. Edward State Park ballfield renovation project (\$2,500,000). Total expenditures are estimated at \$3,610,000. Proposed grant requests total \$1,302,000 with a total city funding match of \$2,308,000. The City match is estimated from a variety of funding sources including Park Impact Fees (\$488,000), REET (\$800,000), King County Park Levy (\$90,000), and Strategic Opportunity Fund (\$930,000).		

Park	Proposed Grant Funding	Proposed Local Match	Total Project Budget	Project Description
Squire's Landing	82,000	83,000	165,000	Float (Dock) and ADA Access
Rhododendron	470,000	475,000	945,000	Float (Dock), Boardwalk and ADA Access
St. Edward	750,000	1,750,000	2,500,000	Sportsfield Renovation (no lights)
Total	1,302,000	2,308,000	3,610,000	

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Council Goals:

- Goals #2 and #8: To advance the public's access and connection to the waterfront
- Goal #12: To continue to implement a Parks Improvements and Financial Plan

Comprehensive Plan Park Recreation and Open Space Plan Policies:

Policy 5.1.3 Consider providing new facilities and facility upgrades to existing park lands to support new or existing recreation opportunities where appropriate.

Policy 7.1.4 Identify, and actively seek potential grant funding assistance from public and private sources for...renovation of Kenmore park lands.

Attachment 1

**CITY OF KENMORE
WASHINGTON
RESOLUTION NO. 16-273**

Project Name: Squire's Landing Float Replacement
Project No. 16-1603
Project Type: Development Project

A RESOLUTION authorizing the submittal of applications for grant funding assistance for **Washington Wildlife and Recreation Program (WWRP) project(s)** to the Recreation and Conservation Funding Board as provided in Chapter 79A.15 and 79A.25 RCW, Washington Administrative Code 286, and other applicable authorities.

WHEREAS, our organization has approved a comprehensive parks and recreation or habitat conservation plan that includes this project; and

WHEREAS, under provisions of the WWRP program, state grant assistance is requested to aid in financing the cost of facility development; and

WHEREAS, our organization considers it in the best public interest to complete the project described in the application(s).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager, or his designee, is authorized to make formal application to the Recreation and Conservation Funding Board for grant assistance.

Section 2. Our organization has reviewed the sample project agreement on the Recreation and Conservation Office's web site at: <http://www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf> and authorizes Rob Karlinsey, City Manager, to enter into such a project agreement, if funding is awarded. We understand and acknowledge that the project agreement will contain the indemnification (applicable to any sponsor) and other terms and conditions that are contained in the sample project agreement. The sample project agreement may be revised periodically by the Recreation and Conservation Office. Our organization recognizes that such changes might occur prior to our authorized representative signing the actual project agreement, and we accept the responsibility and the presumption that our authorized representative shall have conferred with us as to any such changes before he/she executes the project agreement on behalf of our organization and so executes with our authorization.

Section 3. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

Section 4. Our organization expects our matching share of project funding will be derived from **Park Impact Fees** and that pursuant to WAC 286-13-040 we must certify the availability

of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash commitments to this project should they not materialize.

Section 5. We acknowledge that if the Recreation and Conservation Funding Board approves grant assistance for the project(s), the Recreation and Conservation Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Recreation and Conservation Office after we incur eligible and allowable costs and pay them. The Recreation and Conservation Office may also determine an amount of retainage and hold that amount until the project is complete.

Section 6. We acknowledge that any property owned by our organization that is developed, renovated or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity after the project is complete unless otherwise provided and agreed to by our organization and the Recreation and Conservation Funding Board in the project agreement or an amendment thereto.

Section 7. This application authorization becomes part of a formal application to the Recreation and Conservation Funding Board for grant assistance.

Section 8. We provided appropriate opportunity for public comment on this application.

Section 9. We certify that this application authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that the person signing as authorized representative is duly authorized to do so.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, 18120 68th AVENUE NE, KENMORE, WASHINGTON, AT A REGULAR MEETING THEREOF THIS 18th DAY OF APRIL, 2016.

CITY OF KENMORE

David Baker, Mayor

ATTEST:

Patty Safrin, City Clerk

APPROVED AS TO FORM:

Rod Kaseguma, City Attorney

Attachment 2

**CITY OF KENMORE
WASHINGTON
RESOLUTION NO. 16-274**

Project Name: Rhododendron Park Float and Boardwalk
Project No. 16-1692
Project Type: Development Project

A RESOLUTION authorizing the submittal of applications for grant funding assistance for **Washington Wildlife and Recreation Program (WWRP) project(s)** to the Recreation and Conservation Funding Board as provided in Chapter 79A.15 and 79A.25 RCW, Washington Administrative Code 286, and other applicable authorities.

WHEREAS, our organization has approved a comprehensive parks and recreation or habitat conservation plan that includes this project; and

WHEREAS, under provisions of the WWRP program, state grant assistance is requested to aid in financing the cost of facility development; and

WHEREAS, our organization considers it in the best public interest to complete the project described in the application(s).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager, or his designee, is authorized to make formal application to the Recreation and Conservation Funding Board for grant assistance.

Section 2. Our organization has reviewed the sample project agreement on the Recreation and Conservation Office's web site at: <http://www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf> and authorizes Rob Karlinsey, City Manager, to enter into such a project agreement, if funding is awarded. We understand and acknowledge that the project agreement will contain the indemnification (applicable to any sponsor) and other terms and conditions that are contained in the sample project agreement. The sample project agreement may be revised periodically by the Recreation and Conservation Office. Our organization recognizes that such changes might occur prior to our authorized representative signing the actual project agreement, and we accept the responsibility and the presumption that our authorized representative shall have conferred with us as to any such changes before he/she executes the project agreement on behalf of our organization and so executes with our authorization.

Section 3. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

Section 4. Our organization expects our matching share of project funding will be derived from **Park Impact Fees, Strategic Opportunity Fund, and Real Estate Excise Taxes** and that pursuant to WAC 286-13-040 we must certify the availability

of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash commitments to this project should they not materialize.

Section 5. We acknowledge that if the Recreation and Conservation Funding Board approves grant assistance for the project(s), the Recreation and Conservation Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Recreation and Conservation Office after we incur eligible and allowable costs and pay them. The Recreation and Conservation Office may also determine an amount of retainage and hold that amount until the project is complete.

Section 6. We acknowledge that any property owned by our organization that is developed, renovated or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity after the project is complete unless otherwise provided and agreed to by our organization and the Recreation and Conservation Funding Board in the project agreement or an amendment thereto.

Section 7. This application authorization becomes part of a formal application to the Recreation and Conservation Funding Board for grant assistance.

Section 8. We provided appropriate opportunity for public comment on this application.

Section 9. We certify that this application authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that the person signing as authorized representative is duly authorized to do so.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, 18120 68th AVENUE NE, KENMORE, WASHINGTON, AT A REGULAR MEETING THEREOF THIS 18th DAY OF APRIL, 2016.

CITY OF KENMORE

David Baker, Mayor

ATTEST:

Patty Safrin, City Clerk

APPROVED AS TO FORM:

Rod Kaseguma, City Attorney

CITY OF KENMORE
WASHINGTON
RESOLUTION NO. 16-275

Project Name: Rhododendron Park
RCO Project No. 16-1693
Project Type: Development Project

A RESOLUTION OF THE CITY COUNCIL OF KENMORE, WASHINGTON, authorizing the submittal of applications for grant funding assistance for **Aquatic Lands Enhancement Account (ALEA)** project(s) to the Recreation and Conservation Funding Board as provided in RCW 79.105.150, 79A.25 RCW, WAC 286, and other applicable authorities.

WHEREAS, under provisions of the ALEA program, state grant assistance is requested to aid in financing the cost of facility development; and

WHEREAS, our organization considers it in the best public interest to complete the project described in the application(s).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager is authorized to make formal application to the Recreation and Conservation Funding Board for grant assistance.

Section 2. Our organization has reviewed the sample project agreement on the Recreation and Conservation Office's web site at: <http://www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf> and authorizes Rob Karlinsey, City Manager, to enter into such a project agreement, if funding is awarded. We understand and acknowledge that the project agreement will contain the indemnification and other terms and conditions that are contained in the sample project agreement. The sample project agreement may be revised periodically by the Recreation and Conservation Office. Our organization recognizes that such changes might occur prior to our authorized representative signing the actual project agreement, and we accept the responsibility and the presumption that our authorized representative shall have conferred with us as to any such changes before he/she executes the project agreement on behalf of our organization and so executes with our authorization.

Section 3. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

Section 4. Our organization expects our matching share of project funding will be derived from **Real Estate Taxes and King County Park Levy** and that pursuant to WAC 286-13-040 we must certify the availability of match at least one month before funding approval. In

addition, our organization understands it is responsible for supporting all non-cash commitments to this project should they not materialize.

Section 5. We acknowledge that if the Recreation and Conservation Funding Board approves grant assistance for the project(s), the Recreation and Conservation Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Recreation and Conservation Office after we incur eligible and allowable costs and pay them. The Recreation and Conservation Office may also determine an amount of retainage and hold that amount until the project is complete.

Section 6. We acknowledge that any property not owned by our organization that is developed, renovated or restored with grant assistance must be dedicated for the purpose of the grant for at least twenty (20) years after the project is complete unless otherwise provided and agreed to by our organization and the Recreation and Conservation Funding Board in the project agreement or an amendment thereto.

Section 7. This application authorization becomes part of a formal application to the Recreation and Conservation Funding Board for grant assistance.

Section 8. We provided appropriate opportunity for public comment on this application.

Section 9. We certify that this application authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that the person signing as authorized representative is duly authorized to do so.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, 18120 68th AVENUE NE, KENMORE, WASHINGTON, AT A REGULAR MEETING THEREOF THIS 18th DAY OF APRIL, 2016

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Patty Safrin, City Clerk

APPROVED AS TO FORM:

Rod Kaseguma, City Attorney

**CITY OF KENMORE
WASHINGTON
RESOLUTION NO. 16-276**

Project Name: St. Edward State Park Ballfields
Project #16-1609
Project Type: Development Project

A RESOLUTION authorizing the submittal of applications for grant funding assistance for **Washington Wildlife and Recreation Program (WWRP) project(s)** to the Recreation and Conservation Funding Board as provided in Chapter 79A.15 and 79A.25 RCW, Washington Administrative Code 286, and other applicable authorities.

WHEREAS, our organization has approved a comprehensive parks and recreation or habitat conservation plan that includes this project; and

WHEREAS, under provisions of the WWRP program, state grant assistance is requested to aid in financing the cost of facility development; and

WHEREAS, our organization considers it in the best public interest to complete the project described in the application(s).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager, or his designee, is authorized to make formal application to the Recreation and Conservation Funding Board for grant assistance.

Section 2. Our organization has reviewed the sample project agreement on the Recreation and Conservation Office's web site at: <http://www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf> and authorizes Rob Karlinsey, City Manager, to enter into such a project agreement, if funding is awarded. We understand and acknowledge that the project agreement will contain the indemnification (applicable to any sponsor) and other terms and conditions that are contained in the sample project agreement. The sample project agreement may be revised periodically by the Recreation and Conservation Office. Our organization recognizes that such changes might occur prior to our authorized representative signing the actual project agreement, and we accept the responsibility and the presumption that our authorized representative shall have conferred with us as to any such changes before he/she executes the project agreement on behalf of our organization and so executes with our authorization.

Section 3. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

Section 4. Our organization expects our matching share of project funding will be derived from **Park Impact Fees, Strategic Opportunity Fund and Real Estate Excise Taxes** and that pursuant to WAC 286-13-040 we must certify the availability

of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash commitments to this project should they not materialize.

Section 5. We acknowledge that if the Recreation and Conservation Funding Board approves grant assistance for the project(s), the Recreation and Conservation Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Recreation and Conservation Office after we incur eligible and allowable costs and pay them. The Recreation and Conservation Office may also determine an amount of retainage and hold that amount until the project is complete.

Section 6. We acknowledge that any property owned by our organization that is developed, renovated or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity after the project is complete unless otherwise provided and agreed to by our organization and the Recreation and Conservation Funding Board in the project agreement or an amendment thereto.

Section 7. This application authorization becomes part of a formal application to the Recreation and Conservation Funding Board for grant assistance.

Section 8. We provided appropriate opportunity for public comment on this application.

Section 9. We certify that this application authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that the person signing as authorized representative is duly authorized to do so.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, 18120 68th AVENUE NE, KENMORE, WASHINGTON, AT A REGULAR MEETING THEREOF THIS 18th DAY OF APRIL, 2016.

CITY OF KENMORE

David Baker, Mayor

ATTEST:

Patty Safrin, City Clerk

APPROVED AS TO FORM:

Rod Kaseguma, City Attorney

CITY OF KENMORE
WASHINGTON
RESOLUTION NO. 16-277

Project Name: St. Edward Park Ballfields Renovation
Project No. 16-1643
Project Type: Development Project

A RESOLUTION OF THE CITY COUNCIL OF KENMORE, WASHINGTON, authorizing the submittal of applications for grant funding assistance for **Youth Athletic Facilities** (YAF) project(s) to the Recreation and Conservation Funding Board as provided in 79A.25 RCW, WAC 286, and other applicable authorities.

WHEREAS, under provisions of the YAF program, state grant assistance is requested to aid in financing the cost of facility development; and

WHEREAS, our organization considers it in the best public interest to complete the project described in the application(s).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager is authorized to make formal application to the Recreation and Conservation Funding Board for grant assistance.

Section 2. Our organization has reviewed the sample project agreement on the Recreation and Conservation Office's web site at: <http://www.rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf> and authorizes Rob Karlinsey, City Manager, to enter into such a project agreement, if funding is awarded. We understand and acknowledge that the project agreement will contain the indemnification and other terms and conditions that are contained in the sample project agreement. The sample project agreement may be revised periodically by the Recreation and Conservation Office. Our organization recognizes that such changes might occur prior to our authorized representative signing the actual project agreement, and we accept the responsibility and the presumption that our authorized representative shall have conferred with us as to any such changes before he/she executes the project agreement on behalf of our organization and so executes with our authorization.

Section 3. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

Section 4. Our organization expects our matching share of project funding will be derived from **Park Impact Fees** and that pursuant to WAC 286-13-040 we must certify the availability of match at least one month before funding approval. In addition, our organization understands

it is responsible for supporting all non-cash commitments to this project should they not materialize.

Section 5. We acknowledge that if the Recreation and Conservation Funding Board approves grant assistance for the project(s), the Recreation and Conservation Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Recreation and Conservation Office after we incur eligible and allowable costs and pay them. The Recreation and Conservation Office may also determine an amount of retainage and hold that amount until the project is complete.

Section 6. We acknowledge that any property not owned by our organization that is developed, renovated or restored with grant assistance must be dedicated for the purpose of the grant for at least twenty (20) years after the project is complete unless otherwise provided and agreed to by our organization and the Recreation and Conservation Funding Board in the project agreement or an amendment thereto.

Section 7. This application authorization becomes part of a formal application to the Recreation and Conservation Funding Board for grant assistance.

Section 8. We provided appropriate opportunity for public comment on this application.

Section 9. We certify that this application authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that the person signing as authorized representative is duly authorized to do so.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, 18120 68th AVENUE NE, KENMORE, WASHINGTON, AT A REGULAR MEETING THEREOF THIS 18th DAY OF APRIL, 2016

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Patty Safrin, City Clerk

APPROVED AS TO FORM:

Rod Kaseguma, City Attorney



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

Subject/Topic: Contract No. 16-C1503 for construction of the Logboom Park Pedestrian Bridge Project Proposed Council Action/Motion: Authorize City Manager to enter into a contract for construction of the Logboom Park Pedestrian Bridge Project not to exceed \$141,462.	For Council Meeting Agenda of: April 18, 2106 Department: Community Development Prepared by: Zack Richardson, Civil Engineer Initial & Date Approved by Department Head: <u>AS 4/5/16</u> Approved by City Attorney: <u>N/A</u> Approved by Finance Director: <u>me 4/4/16</u> Approved by City Manager: <u>RJK</u> Exhibits/Attachments: N/A																			
Expenditure Required \$ 141,462	Amount Budgeted \$295,000	Appropriation Required \$ 0																		
<u>INFORMATION/BACKGROUND:</u> Staff have worked through the design and permitting processes for the Logboom Park Pedestrian Bridge Project and are ready to begin construction. The replacement of the pedestrian bridge is required per settlement agreement 13-C1107 and must be completed before the end of 2016 to avoid monetary penalties. Staff advertised for bids on 2/23/2016 and received 5 bids before the deadline on 3/8/2016. The lowest apparent bidder is McClure & Sons with bid of \$117,885, which was \$5,500 below the engineer's estimate. The requested contract authority represents the low bid plus a 20% contingency. Even with the 20% contingency, the project is still tracking to remain under budget. <u>FISCAL CONSIDERATION:</u> This project was originally budgeted with 2014 and 2105 Park Capital Funds, which have since been rolled over to 2016 funds. The total project budget is \$295,000 and the project will remain under budget with the contract authority being requested. See table of anticipated project costs below: <table border="1" style="margin: 10px auto; border-collapse: collapse; text-align: center;"> <thead> <tr style="background-color: #d3d3d3;"> <th style="padding: 5px;">Project Component</th> <th style="padding: 5px;">Approx. Cost</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">Project Design (Non-staff)</td> <td style="padding: 5px;">\$95,020.00</td> </tr> <tr> <td style="padding: 5px;">Project Design (Staff)</td> <td style="padding: 5px;">\$8,000.00</td> </tr> <tr> <td style="padding: 5px;">Construction Support (Non-staff)</td> <td style="padding: 5px;">\$23,157.00</td> </tr> <tr> <td style="padding: 5px;">Construction Management (Staff)</td> <td style="padding: 5px;">\$20,860.00</td> </tr> <tr> <td style="padding: 5px;">Construction</td> <td style="padding: 5px;">\$141,462.00</td> </tr> <tr style="background-color: #d3d3d3;"> <td style="padding: 5px;">Estimated Project Total</td> <td style="padding: 5px;">\$288,499.00</td> </tr> <tr style="background-color: #d3d3d3;"> <td style="padding: 5px;">Total Project Budget</td> <td style="padding: 5px;">\$295,000.00</td> </tr> <tr style="background-color: #d3d3d3;"> <td style="padding: 5px;">Budget Difference</td> <td style="padding: 5px;">\$6,501.00</td> </tr> </tbody> </table>			Project Component	Approx. Cost	Project Design (Non-staff)	\$95,020.00	Project Design (Staff)	\$8,000.00	Construction Support (Non-staff)	\$23,157.00	Construction Management (Staff)	\$20,860.00	Construction	\$141,462.00	Estimated Project Total	\$288,499.00	Total Project Budget	\$295,000.00	Budget Difference	\$6,501.00
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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.
4. To advance the public's access and connection to the waterfront.

In addition to addressing council goals, this project is required as a condition of an existing settlement agreement with the Harbor Village Marina Association of Condominium Owners (13-C1107), with monetary penalties beginning at the end of 2016 if the condition is not met.



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

Subject/Topic: Increase Contract Contingency for Skyward Construction Contract No. 15-C1462 for construction of the Town Green Project Proposed Council Action/Motion: Authorize a contingency increase of \$64,000 and authorize City Manager to execute change orders to Contract No. 15-C1462 with Skyward Construction Inc for the Town Green Project up to a total of \$227,328.50. Authorize a budget increase of \$30,000 for the Town Green project.		For Council Meeting Agenda of: April 18, 2016 Department: City Manager Prepared by: Rob Karlinsey, City Manager <u>Initial & Date</u> Approved by Department Head: _____ Approved by City Attorney: _____ N/A Approved by Finance Director: _____ Approved by City Manager: _____ Exhibits/Attachments:	
Expenditure Required \$4,294,175 (includes design, construction and contingency)	Amount Budgeted \$4.265 million	Appropriation Required \$30,000	
<u>INFORMATION/BACKGROUND:</u> On 10/12/15 the Council authorized the City Manager to enter into Contract No. 15-C1462 with a Skyward Construction for construction of the Town Green Project in an amount of \$3,266,570.06 (including sales tax) plus an additional \$163,328.50 (5% contingency) for a total of \$3,429,898.56. Staff is requesting that Council increase the contingency authority by \$64,000 to a total proposed contract contingency of \$227,328.50 (7% of the total original contract amount). Change orders totaling \$132,125 have been approved to date. These change orders address several unforeseen construction issues (\$72,170) and change orders (\$59,955) requested by the City for project improvements.			
<u>FISCAL CONSIDERATION:</u> Staff will be bringing forward a follow-up budget amendment to a future Council meeting to increase the project budget by \$30,000 to \$4,294,175. The City received \$30,000 from Main Street Property LLC to cover the contractor cost for addressing soil conditions on the site.			
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Council goal #2 develop downtown is part of implementing the Economic Development Plan. A central gathering space is identified in the positioning statement for Kenmore Village. Developing a central gathering space is also consistent with the adopted Downtown Plan and Park and Recreation Open Space (PROS) plan.			



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Contract Amendment to Contract No. 14-C1324 with Hewitt Architects for the Town Green Project Proposed Council Action/Motion: Authorize the City Manager to execute amendment no. 4 to Contract No. 14-C1324 with Hewitt Architects for Professional Services in the amount of \$28,500.	For Council Meeting Agenda of: April 18, 2016 Department: City Manager Prepared by: Rob Karlinsey, City Manager <table style="width: 100%; border: none;"> <tr> <td style="width: 70%;"></td> <td style="text-align: center; border-bottom: 1px solid black;"><u>Initial & Date</u></td> </tr> <tr> <td>Approved by Department Head:</td> <td style="text-align: center;">N/A</td> </tr> <tr> <td>Approved by City Attorney:</td> <td style="text-align: center;">[Signature] 4/14/16</td> </tr> <tr> <td>Approved by Finance Director:</td> <td style="text-align: center;">[Signature]</td> </tr> <tr> <td>Approved by City Manager:</td> <td style="text-align: center;">[Signature]</td> </tr> </table> Exhibits/Attachments:		<u>Initial & Date</u>	Approved by Department Head:	N/A	Approved by City Attorney:	[Signature] 4/14/16	Approved by Finance Director:	[Signature]	Approved by City Manager:	[Signature]
	<u>Initial & Date</u>										
Approved by Department Head:	N/A										
Approved by City Attorney:	[Signature] 4/14/16										
Approved by Finance Director:	[Signature]										
Approved by City Manager:	[Signature]										
Expenditure Required \$4,230,175 (includes design, construction and contingency)	Amount Budgeted \$4.265 million	Appropriation Required NA									
<u>INFORMATION/BACKGROUND:</u> On 05/18/15 Council authorized the City Manager to execute amendment no. 3 to Contract No. 14-C1324 with a Hewitt Architects to complete design and provide professional services during construction. The total authorized contract amount through amendment no. 3 is \$574,539. The effort to progress the plans and specifications to completion required more effort than anticipated and resulted in expending a portion of the Construction Services phase of the contract. To provide the necessary services to complete construction, an amendment is needed to increase the total fees with Hewitt Architects. This increase in fees will provide for review of material submittals, responses to questions, and on-site review of construction progress for the remainder of construction. If approved, the total contract amount for Hewitt Architects will be \$603,039. Staff is requesting that Council authorize the City Manager to execute amendment no. 4 to Contract No. 14-C1324 with Hewitt Architects in the amount of \$28,500.											
<u>FISCAL CONSIDERATION:</u> There is sufficient budget to cover this amendment. However, staff will be bringing forward a follow-up budget amendment request at this Council meeting to cover additional construction expenses as noted in the agenda item "Increase Contract Contingency for Skyward Construction Contract No. 15-C1462 for construction of the Town Green Project" also under consent at this meeting.											
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Council goal #2 develop downtown is part of implementing the Economic Development Plan. A central gathering space is identified in the positioning statement for Kenmore Village. Developing a central gathering space is also consistent with the adopted Downtown Plan and Park and Recreation Open Space (PROS) plan.											



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

Subject/Topic:	For Council Meeting Agenda of: 18 April 2016	
Motion to allow indoor storage as a temporary use for up to a one year period in property located at 15036 70th Avenue NE which is owned by the Northshore Fire District and zoned Public/Semi- Public, subject to conditions	Department: Development Services/Executive Prepared by: Bryan Hampson/ Nancy Ousley	
Proposed Council Action/Motion:	<u>Initial & Date</u> Approved by Department Head: <u>NKO 5 APR 2016</u> Approved by City Attorney: <u>R.K. email</u> Approved by Finance Director: <u>Corey 4/15/16</u> Approved by City Manager: <u>NKO</u>	
Approve Motion to allow indoor storage as a temporary use for up to a one year period in property located at 15036 70th Avenue NE which is owned by the Northshore Fire District and zoned Public/Semi- Public, subject to conditions	Exhibits/Attachments: 1. Correspondence from Chief Jim Torpin, Northshore Fire District dated March 9, 2016 2. May 11, 2015 Agenda Bill	
Expenditure Required \$0	Amount Budgeted \$n/a	Appropriation Required \$n/a
<u>INFORMATION/BACKGROUND:</u> Indoor storage is not a specifically permitted use in the Public/Semi Public zone. Per Kenmore Municipal Code 18.100.120, a temporary use permit is a mechanism by which the city may permit a use otherwise not permitted in the zone that can be made compatible for periods of limited duration. A temporary use permit cannot exceed a total of 90 days unless extended by the City Council to one year, following a public hearing. The Northshore Fire District requests City Council approval of a temporary use permit to allow indoor storage in its former Fire Station 54 property in the Moorlands area from May 15, 2016 to May 14, 2017. The City Council approved a one year temporary use for indoor storage at the facility in May 2015, and the Fire District requests an additional year for this temporary use by the same tenant, Michael Klebeck. The arrangement has worked well for the District and Mr. Klebeck, who previously leased storage space from the City in the former Kenmore Village. There have been no issues with the neighboring properties, and the Fire District has communicated with neighbors about having the temporary storage use in the former station. The 1842 square foot facility has not been used as a fire station since 1994 and was previously leased to non profits, including the YMCA, that operated youth programs. After the YMCA terminated its lease with the District the facility was vacant until the lease with Mr. Klebeck was approved in 2015. While the District evaluates future uses of the property, leasing the property serves to offset the property holding costs, and also deters vandalism at the site.		

The District is committed to continued use of this building in a way that is compatible with the surrounding residential area, and will continue to proactively communicate with the community about the use. The City and District agree on the following conditions for the temporary use permit:

- Storage is only permitted inside the structure
- No alcohol or other hazardous materials will be stored in the facility
- The building will be equipped with a monitored alarm system
- The grounds will be maintained at the current level of care
- Visits to the site for pick up and drop off will be infrequent (approximately once per week) and limited to daytime hours

FISCAL CONSIDERATION:

There is no cost to the City for this action and the Fire District can realize some income while having its property occupied and maintained while it evaluates future use of the property.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Continue to implement the Economic Development Strategy



KING COUNTY FIRE PROTECTION DISTRICT NO. 16

7220 NE 181st Street Kenmore, WA 98028

Business: 425-354-1780

Fax: 425-354-1781

 March 9, 2016

Rob Karlinsey, City Manager
 City of Kenmore
 18120 68th Ave NE
 Kenmore, WA 98028

RE: Extension of Temporary Use Permit

Dear Mr. Karlinsey,

I am writing to you for assistance in facilitating an extension of the temporary use permit for property owned by King County Fire Protection District No. 16 (District) located at 15036 70th Avenue NE. The temporary use permit approved by the Kenmore City Council last year allows for indoor storage, subject to conditions, as a temporary use of the former fire station which is zoned public/semi-public. The temporary use permit was valid for a one year period from May 15, 2015, to May 14, 2016.

The District has leased the space to Michel Klebeck, owner of Top Pot Donuts and Sun Liquor, since last June. Previous to our rental agreement Mr. Klebeck leased a space from the City of Kenmore in the Kenmore Village complex.

The use of the facility for indoor storage is subject to the following conditions:

- Storage is only permitted inside the structure
- Storage is limited to low hazard commodities, no alcohol or other hazardous materials will be allowed
- The building will be equipped with a monitored alarm system
- The grounds will be maintained at the current level of care
- Visits to the site for pick up and drop off will be infrequent (approximately once per week) and limited to daytime hours.

It was important to the District that the use of the facility for indoor storage would have no impact on the surrounding neighborhood. Prior to leasing the space to Mr. Klebeck, all of the adjacent neighbors were given notice and an opportunity to express concerns. They were also encouraged to contact me if Mr. Klebeck's use of the facility presented any problems. To date we have not received a single concern or complaint from the neighbors and the tenant has lived up to all of the conditions listed above. The presence of a tenant has reduced the occurrence of vandalism and vagrants illegally gaining entry and/or hanging around the site.

The District continues to believe that there may be future value in this site for our delivery of emergency services. Monies collected for rent have benefited the District's taxpayers by offsetting the holding costs of this property. Therefore, we would like to maintain the option of leasing the space for storage for another year.

I appreciate your attention and assistance with this matter. If you have any further questions regarding this request please feel free to contact me.

Sincerely


 Jim Torpin
 Fire Chief



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

Subject/Topic: Motion to allow indoor storage as a temporary use for up to a one year period in property located at 15036 70th Avenue NE which is owned by the Northshore Fire District and zoned Public/Semi- Public, subject to conditions Proposed Council Action/Motion: Approve Motion to allow indoor storage as a temporary use for up to a one year period in property located at 15036 70th Avenue NE which is owned by the Northshore Fire District and zoned Public/Semi- Public, subject to conditions	For Council Meeting Agenda of: 11 May 2015 Department: Development Services/Executive Prepared by: Bryan Hampson/ Nancy Ousley Initial & Date Approved by Department Head: <u>NLO 28 APR 2015</u> Approved by City Attorney: <u>RK</u> Approved by Finance Director: <u>me 4/30/15</u> Approved by City Manager: <u>[Signature]</u> Exhibits/Attachments: Correspondence from Chief Jim Torpin, Northshore Fire District	
Expenditure Required \$0	Amount Budgeted \$n/a	Appropriation Required \$n/a
<u>INFORMATION/BACKGROUND:</u> Indoor storage is not a specifically permitted use in the Public/Semi Public zone. Per Kenmore Municipal Code 18.100.120, a temporary use permit is a mechanism by which the city may permit a use otherwise not permitted in the zone that can be made compatible for periods of limited duration. A temporary use permit cannot exceed a total of 90 days unless extended by the City Council to one year. The Northshore Fire District requests City Council approval of a temporary use permit to allow indoor storage in its former Fire Station 54 property in the Moorlands area from May 15, 2015 to May 14, 2016. The 1842 square foot facility has not been used as a fire station since 1994 and was subsequently leased to non profits that operated youth programs. The YMCA terminated its lease with the District and the facility is now vacant. While the District evaluates future uses of the property, it would like to offset the property holding costs through leasing it, which will also deter vandalism at the site. The District has received several offers to lease the former station for indoor storage. The District has conditionally accepted a proposal from Michael Klebeck pending City approval of a temporary use permit for the indoor storage use. Mr. Klebeck has leased space in Kenmore Village for indoor storage from the City since 2013, which will no longer be available because of the property sale and redevelopment. The City Council approved temporary use permits for this use in 2013 and 2014. The District is committed to using this building in a way that is compatible with the surrounding residential area, and will proactively communicate with the community about the proposed use. The City and District agree on the following conditions for the temporary use permit:		

- Storage is only permitted inside the structure
- No alcohol or other hazardous materials will be stored in the facility
- The building will be equipped with a monitored alarm system
- The grounds will be maintained at the current level of care
- Visits to the site for pick up and drop off will be infrequent (approximately once per week) and limited to daytime hours

The proposed tenant is a successful and well regarded business owner and has been a reliable tenant in the City owned property.

FISCAL CONSIDERATION:

There is no cost to the City for this action and the Fire District can realize some income while having its property occupied and maintained while it evaluates future use of the property.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Continue to implement the Economic Development Strategy



KING COUNTY FIRE PROTECTION DISTRICT NO. 16

7220 NE 181st Street Kenmore, WA 98028

Business: 425-354-1780

Fax: 425-354-1781

February 25, 2015

Rob Karlinsey, City Manager
City of Kenmore
18120 68th Ave NE
Kenmore, WA 98028

RE: Request for Temporary Use Permit

Dear Mr. Karlinsey,

I am writing to you for assistance in obtaining a temporary use permit for property owned by King County Fire Protection District No. 16 (District). The District is requesting approval to allow indoor storage, subject to conditions, as a temporary use at the former fire station which is zoned public/semi-public for a one year period from May 15, 2015, to May 14, 2016. The property is located at 15036 70th Avenue NE.

Indoor storage is not addressed in the table of uses for areas with R-6 or Public/Semi Public Zones. Per Kenmore Municipal Code 18.100.120, temporary use permit is a mechanism by which the city may permit a use otherwise not permitted in a specific zoning area for periods of limited duration. A temporary use permit cannot exceed a total of 90 days unless extended by the City Council to one year.

The District has owned a facility in the Moorlands area of Kenmore which was previously used as a fire station. The District has not used the facility for that purpose since 1994 when the volunteer firefighter program ended. The building was subsequently leased to the Boys and Girls Clubs of King County and more recently the YMCA for use with their children's after school and summer camp programs. The YMCA has terminated its lease with the District and the building is now vacant.

The District has maintained ownership of the parcel due to its potential value as a site for future fire suppression and/or emergency medical response station. The District is currently evaluating its options and would like to lease the facility in an effort to offset its holding costs related to this property while the future use of the facility is determined.

The District has received several offers to lease the 1842 square foot former fire station. All of the parties expressing interest in the facility would use it for low hazard indoor storage. The District has conditionally accepted a proposal from Michel Klebeck pending approval of a temporary use permit from the City of Kenmore. Mr. Klebeck current leases a space from the City of Kenmore in the Kenmore Village complex.

Understanding the facility is surrounded by a residential area that must not be negatively impacted; the use of the facility for indoor storage will be subject to the following conditions:

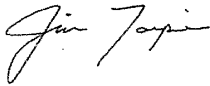
- Storage is only permitted inside the structure

- Storage is limited to low hazard commodities, no alcohol or other hazardous materials will be allowed
- The building will be equipped with a monitored alarm system
- The grounds will be maintained at the current level of care
- Visits to the site for pick up and drop off will be infrequent (approximately once per week) and limited to daytime hours.

The use of the District's facility for indoor storage will have little to no impact on the surrounding neighborhood. The presence of a tenant will reduce the chance of vandalism and vagrants illegally gaining entry or hanging around the site. Moneys collected for rent will benefit the District's taxpayers by offsetting the holding costs of this property. Mr. Klebeck understands that the lease would be terminated if the condition of no tangible impact to the neighborhood is not maintained.

I appreciate your attention and assistance with this matter. If you have any further questions regarding this request please feel free to contact me.

Sincerely

A handwritten signature in cursive script, appearing to read "Jim Torpin".

Jim Torpin
Fire Chief



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

Subject/Topic: Ordinance No. 16-0419 providing for the establishment of maximum periods of parking on city streets and in city-owned parking lots Proposed Council Action/Motion: Adopt Ordinance No. 16-0419 providing for the establishment of maximum periods of parking on city streets and in city-owned parking lots; Adding new section 10.20.040 and 10.20.050 and renumbering prior section 10.20.040 to 10.20.060 of the Kenmore Municipal Code.	For Council Meeting Agenda of: 18 April 2016 Department: Executive Prepared by: Leslie Harris, Community Relations Manager/Policy Analyst <i>LH</i> <u>Initial & Date</u> Approved by Department Head: <i>NKO</i> Approved by City Attorney: <i>RK - email</i> Approved by Finance Director: <i>April 4/7/16</i> Approved by City Manager: <i>NKO for RK</i> <i>7 APR 2016</i> Exhibits/Attachments: 1) Ordinance No. 16-0419 2) Map of Potential Initial Area of Limited Period Parking Zones
Expenditure Required See fiscal note Amount Budgeted Appropriation Required	
<u>INFORMATION/BACKGROUND:</u> Following City Council discussion and direction at the March 28, 2016 City Council meeting, attached is Ordinance No. 16-0419 for Council action. At the present time, the Kenmore Municipal Code does not address the authority to establish maximum parking limits. To increase the availability of parking on City streets and in City-owned parking lots, particularly at City Hall, Town Green, and for downtown customers, the direction of City Council is to authorize the City Manager to establish maximum periods of parking. By establishing time limited parking restrictions, the turnover of on-street and parking lot space enhances parking opportunities to downtown users and reduces full day use parking. The following is a summary of the attached ordinance. Section 10.20.040 Limited period parking zones This new section will authorize the city manager or designee to establish maximum periods for parking of motor vehicles in city-owned parking lots and on city streets. Section 10.20.050 Permit exception from maximum parking period To achieve City business purposes, this section authorizes the city manager or designee to issue parking permits in order to exempt motor vehicles from the maximum time period restrictions. By doing so, this could open up additional parking spaces for City business purposes, including parking for City Hall customers.	

Section 10.20.060 Violation – Penalty

Section 10.20.060 is renumbered from 10.20.040. This section establishes the maximum penalty for any violation of KMC 10.20.040 shall be a fine of not more than \$50. Enforcement will be conducted by the Kenmore Police Department.

Implementation:

Attached is a map outlining potential areas in downtown Kenmore to initially establish limited period parking. The implementation of limited period parking would occur following planned street improvement projects.

68th Ave NE between NE 181st Street and NE 182nd Street

To increase the amount of street parking in downtown Kenmore, the City is scheduled to restripe 68th Ave NE between NE 181st Street and NE 182nd Street later this year. Following the completion of the project, City staff recommends that time limited parking signs are installed.

NE 181st Street between 68th Ave NE and 73rd Ave NE

The south and north sides of NE 181st Street between 68th Ave NE and 73rd Ave NE will undergo construction of new sidewalks along with other improvements. The south side project is scheduled to begin in spring of 2016. The north side project is expected to begin in 2017. Since vehicles will not be allowed to park along the street during construction, City staff recommends that time limited parking signs are installed along NE 181st Street between 68th Ave NE and NE 73rd Street following the completion of the projects.

Street Parking on NE 181st Street between 68th Ave NE and 67th Ave NE and along the east side of 67th Ave NE

Street parking is currently available on the north side of NE 181st Street between 68th Ave NE and 67th Ave NE and along the east side of 67th Ave NE. City staff recommends establishing time limited parking on the City street on NE 181st Street between 68th Ave NE and 67th Ave NE and along the east side of 67th Ave NE.

Public Notification

Prior to installing time restricted parking signage, City staff will notify surrounding businesses and residents of the change. As part of public notification, the Kenmore Police Department will issue warnings during the first week of implementation.

FISCAL CONSIDERATION:

The Kenmore Police Department will schedule officers on overtime to enforce the limited period parking zones. This expense is covered in the existing budget. Revenue generated from the \$50 parking violation will be credited to the City, however, the net amount received will be minimal, if not neutral, as it will assist in covering associated court costs.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

To focus and emphasize multimodal transportation safety in the City of Kenmore with a specific focus on pedestrian, bicycle, and other means of travel.

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

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 16-0419**

**AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON,
PROVIDING FOR THE ESTABLISHMENT OF MAXIMUM PERIODS
OF PARKING ON CITY STREETS AND IN CITY-OWNED PARKING
LOTS; AND ADDING NEW SECTIONS 10.20.040 AND 10.20.050 TO AND
RENUMBERING SECTION 10.20.040 OF THE KENMORE MUNICIPAL
CODE.**

WHEREAS, to increase the availability of parking on City streets and in City-owned parking lots, particularly at City Hall and the Town Green, the City Council desires to authorize the City Manager to establish maximum periods of parking;

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

Section 1. A new Section 10.20.040 is added to Chapter 10.20 KMC to read as follows:

10.20.040 Limited period parking zones.

The city manager or designee is authorized to establish maximum periods for parking of motor vehicles in city-owned parking lots and on city streets that are not state highways. Except for motor vehicles displaying a permit issued under KMC 10.20.050, it shall be illegal to park a motor vehicle in excess of the maximum time period. The city manager or designee shall place at conspicuous places appropriate signs stating the maximum time periods of parking at the established locations.

Section 2. A new Section 10.20.050 is added to Chapter 10.20 KMC to read as follows:

10.20.050 Permit exemption from maximum parking period.

To achieve City business purposes, the city manager or designee may issue parking permits in order to exempt motor vehicles from the maximum time period restrictions of KMC 10.20.040. The permits shall be valid for the time period in which they are issued and may be renewed. When properly displayed according to instructions provided by the city manager or designee, the permit shall entitle the motor vehicle to be parked without complying with the maximum time period. All other parking regulations shall continue to apply to the motor vehicle displaying the permit.

Section 3. Section 10.20.040 of the Kenmore Municipal Code is renumbered as

10.20.060 and amended to read as follows:

10.20.060 Violation – Penalty.

A. Unless otherwise set out in applicable law or court rule, any person who violates the provisions of KMC 10.20.010, 10.20.020, 10.20.030 or 10.20.040 shall be guilty of an infraction. The maximum penalty for any violation of KMC 10.20.010, 10.20.020 or 10.20.030 shall be a fine of not more than \$350.00, and the maximum penalty for any violation of KMC 10.20.040 shall be a fine of not more than \$50.00.

B. Unless otherwise set forth in applicable law or court rule, any person who violates the provisions of KMC 10.20.035 shall be guilty of a civil infraction. The maximum penalty for a violation of KMC 10.20.035 shall be a fine of not more than \$350.00.

Section 4. 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 ____ DAY OF _____, 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. 1_-0____
DATE OF PUBLICATION:
EFFECTIVE DATE:



Attachment 2: Map of Potential Initial Areas of Limited Period Parking Zones



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

Subject/Topic: January 2016 Financial Report Presentation Proposed Council Action/Motion: Receive and File January 2016 Financial Report for the City of Kenmore, Washington	For Council Meeting Agenda of: April 18, 2016 Department: Finance and Administration Prepared by: Joanne Gregory <table border="0"> <tr> <td></td> <td align="right"><u>Initial & Date</u></td> </tr> <tr> <td>Approved by Department Head:</td> <td align="right">Jmg 4/18/16</td> </tr> <tr> <td>Approved by City Attorney:</td> <td align="right">Jmg 4/18/16</td> </tr> <tr> <td>Approved by Finance Director:</td> <td align="right">Niko 4/18/16</td> </tr> <tr> <td>Approved by City Manager:</td> <td align="right">Niko 4/18/16</td> </tr> </table> Exhibits/Attachments: January 2016 Financial Report for the City of Kenmore, Washington.		<u>Initial & Date</u>	Approved by Department Head:	Jmg 4/18/16	Approved by City Attorney:	Jmg 4/18/16	Approved by Finance Director:	Niko 4/18/16	Approved by City Manager:	Niko 4/18/16
	<u>Initial & Date</u>										
Approved by Department Head:	Jmg 4/18/16										
Approved by City Attorney:	Jmg 4/18/16										
Approved by Finance Director:	Niko 4/18/16										
Approved by City Manager:	Niko 4/18/16										
Expenditure Required N/A	Amount Budgeted \$59,692,797 Revenues \$69,265,349 Expenditures	Appropriation Required N/A									
<u>INFORMATION/BACKGROUND:</u> The January 2016 monthly financial report is presented for Council review. This provides the opportunity for the City Council and the community to receive information on the City of Kenmore's biennium to date revenues and expenditures in comparison to the City's 2015-2016 adopted biennial budget. The budget was adopted on December 8, 2014. It also provides an opportunity to identify any potential variances or fluctuations from the budget. The mid-biennium budget review process has been completed and the December monthly report reflects the amended budgets approved by the City Council on November 23, 2015.											
<u>FISCAL CONSIDERATION:</u> January is the 13th month (54%) of the 24 month 2015-2016 biennium and the beginning of the 2016 fiscal year. The monthly schedules attached include the Transportation Benefit District Fund for informational purposes although it is a separate entity. Total General Fund revenues are right at 54% of the amended budget and expenditures are at 53.7%.											
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Kenmore Budget Policy 9a: A revenue/expenditure report will be produced monthly so that it can be directly compared to the actual results of the fiscal year to date. Kenmore Budget Policy 9b: All budget amendments, both revenues and expenditures, will be noted in the monthly report.											



The City of Kenmore

PO Box 82607
KENMORE, WASHINGTON 98028

MEMORANDUM

TO: Rob Karlinsey, City Manager
FROM: Joanne Gregory, Finance Director
DATE: March 18, 2016
RE: January 2016 Financial Reports for the City of Kenmore, Washington

January 2016 financial information is presented for your review and delivery to the City Council. Attached you will find the following reports:

- General Fund Summary
- General Fund Revenue Graphs
- General Fund Expenditure Graphs
- Street Fund Summary
- Other Funds Monthly Activity
- Schedule of Investments
- Sales Tax Receipts by Business Type
- Retail Sales and Use Tax Distribution
- Real Estate Excise Tax Report
- Monthly Report for Kenmore Village
- Report for Transportation Benefit District

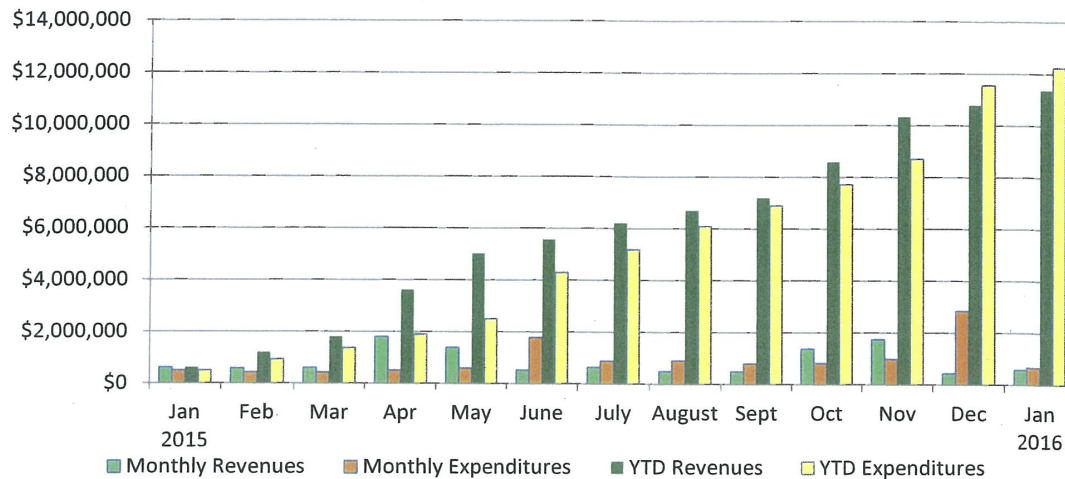
If you would like additional information or have any questions regarding the financial reports, please feel free to contact me.

GENERAL FUND

The first section of the monthly financial report is a review of the General Fund. This fund accounts for operational activities and includes all financial resources except those required or elected to be accounted for in another fund. Revenues include various taxes, per capita distributions from the State, fines and forfeitures, permits and licenses, and fees for service. In the context of the biennial budget, January is the thirteenth month (54%) of the 2015-2016 biennial budget period. For the month of January, expenditures exceeded revenues in the General Fund by \$91,477. Biennium expenditures exceed revenues by \$864,128 due to the 2015 year end interfund transfers.

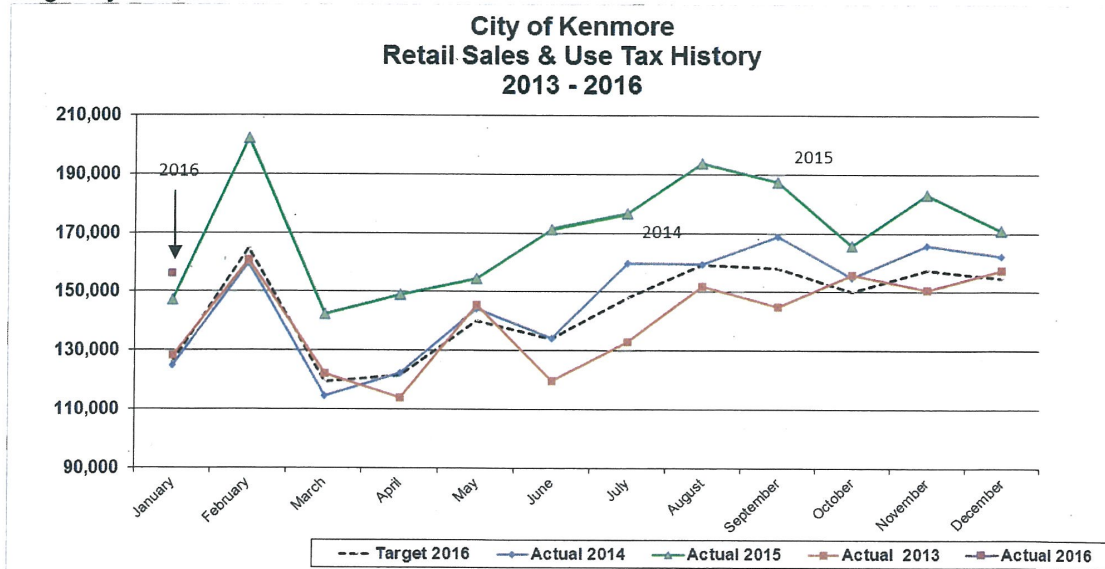
The following chart illustrates the monthly revenue and expenditure activity in the General Fund through January 2016.

City of Kenmore, Washington
Monthly Financial Report
January 2016



Total **revenues** for the month were **\$588,172**. Biennium to date revenues are \$11,369,345, which is 54% of the amended budgeted revenues of \$21,048,270. Primary sources of revenue for the month included property taxes in the amount of \$14,653, development fees & permits in the amount of \$113,397, retail sales and use taxes in the amount of \$155,767, franchise fees in the amount of \$76,428, and utility taxes in the amount of \$130,561.

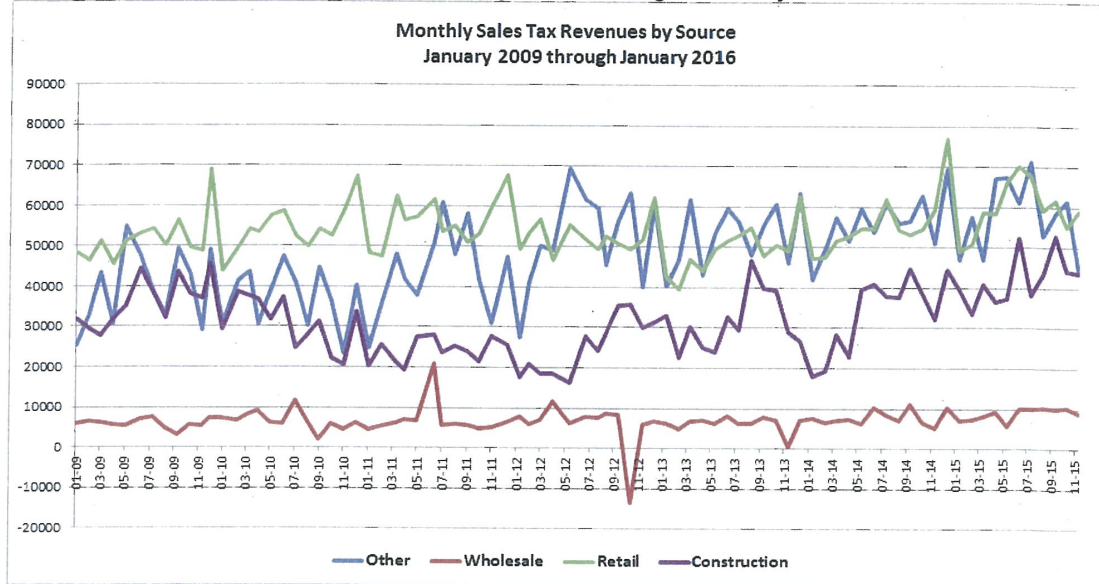
A summary of sales tax revenues received in January is attached. These receipts are based on November sales activity. The chart below gives a historical perspective of monthly sales tax receipts over the last several years. The black dotted Target 2016 line is a monthly average of actual receipts during 2013, 2014, and 2015. The purple dot represents 2016 actual receipts, which are \$8,336 above 2015, and ahead of 2016 target by \$29,609



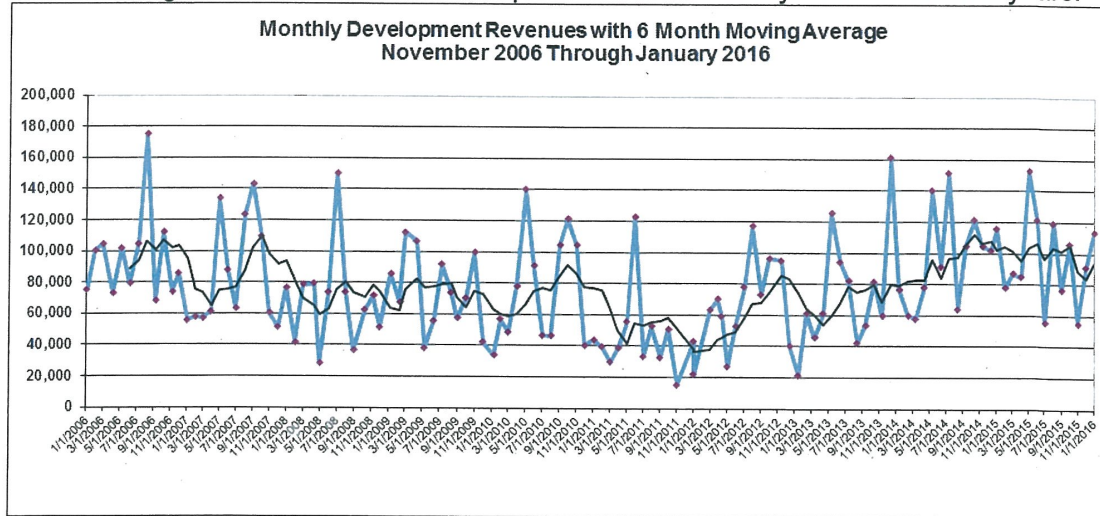
I:\Admin & Finance\Monthly Reports\2016\Jan.docx

City of Kenmore, Washington
 Monthly Financial Report
 January 2016

The following chart illustrates the historical trends of sales tax receipts from the major segments: construction, retail, wholesale, other (agriculture, services, manufacturing, transportation and utilities) from January 2009 through January 2016.



The following chart illustrates the development revenue activity over the last ten years.



January 2016 expenditures were \$679,649. Biennium to date expenditures are \$12,233,473, which is 53.7% of the amended biennial budget expenditures of \$22,772,720.

City of Kenmore, Washington
Monthly Financial Report
January 2016

Total City cash (\$6,922,687) and long term investments (\$11,839,801), at the end of January, totaled \$18,762,488. The Other Funds Monthly Activity graphs compare biennium to date revenues and expenditures to the 2015-2016 biennial budget.

Total non-General Fund revenues were \$546,008 and total non-General Fund expenditures were \$227,719.

In the **Street Fund** revenue from gas tax distributions was \$35,320. \$71,188 was expended for maintenance and operations during the month.

In the **Transportation Capital Fund** expenditures were \$9,339 for SR 522 West A construction. The fund also received \$47,732 in grant reimbursements related to SR 522 West A project and \$119,545 in reimbursements related to the Sammamish Bridge replacement project.

The **Park Impact Fee** fund received \$40,816 in revenues during the month.

There was \$134,944 in revenues for the **Transportation Impact Fee** fund during the month.

The **Real Estate Excise Tax** Fund received \$122,819 of real estate excise taxes (REET) in January from sales activity that occurred in December. 44 transactions were reported this month. The 2016 year to date revenue exceeds the 2015 revenue by \$48,560 and by the 2016 Target by \$55,430.

The **Transportation Benefit District** Fund received \$27,621 in vehicle license fees during January bringing the total for the biennium to \$362,144.

SUMMARY

This concludes the financial report for the City of Kenmore as of **January 31, 2016**. I appreciate your feedback and encourage you to contact me if you have any questions prior to the City Council meeting.

City of Kenmore, Washington
General Fund Summary Report
January 31, 2016



	CURRENT PERIOD 2015-2016				PRIOR PERIOD 2013-2014			
	Current January 2016	BIENNIUM TO DATE 2015-2016	% of BUDGET	BIENNIUM BUDGET 2015-2016	MONTH January 2014	BIENNIUM TO DATE 2013-2014	% of BUDGET	BIENNIUM BUDGET 2013-2014
REVENUES								
Beginning Fund Balance		4,233,568		4,221,475				5,525,153
Property Taxes	14,653	4,525,701	50.6%	8,948,766	17,087	4,303,470	50.4%	8,542,053
Sales and Use Taxes	200,341	2,792,416	59.4%	4,700,532	163,841	2,315,482	58.5%	3,960,331
Utility Taxes	130,561	1,316,335	47.6%	2,763,390	136,798	1,489,689	50.6%	2,942,395
Other Taxes	2,748	59,641	52.9%	112,720	6,912	56,578	92.3%	61,300
Development Fees & Permits	113,397	1,256,352	64.4%	1,951,432	76,829	965,292	65.9%	1,465,185
Franchise Fees	76,428	879,309	61.8%	1,422,160	6,164	309,382	31.2%	992,405
Intergovernmental and Grants	40,039	427,322	60.4%	707,370	29,606	396,495	62.0%	639,866
Investment Interest	8,853	39,506	77.9%	50,700	2,721	37,486	64.2%	58,400
Fines and Forfeitures	-484	-4,844	0.0%	0	-233	-1,505	n/a	0
Transfers and Other Revenues	1,635	77,607	19.8%	391,200	1,435	391,268	68.3%	572,536
Total Revenues	588,172	11,369,345	54.0%	21,048,270	441,160	10,263,637	53.4%	19,234,471
Total Revenues & Beginning Fund Balance								
	1,161,691	15,602,912		25,269,745				24,759,624

	CURRENT PERIOD 2015-2016				PRIOR PERIOD 2013-2014			
	Current January	BIENNIUM TO DATE 2015-2016	% of BUDGET	BUDGET 2015-2016	MONTH January 2014	BIENNIUM TO DATE 2013-2014	% of BUDGET	BIENNIUM BUDGET 2013-2014
EXPENDITURES								
Cost Center								
City Council	35,485	191,957	58.4%	328,435	7,732	113,127	52.0%	217,644
City Manager	100,333	1,582,541	49.9%	3,173,222	58,531	1,189,496	66.2%	1,796,600
City Clerk	12,987	189,496	68.2%	277,683	6,699	111,128	20.7%	536,261
Finance	225,314	957,986	71.4%	1,342,155	25,328	345,924	54.1%	639,213
Legal	2,113	192,068	43.7%	440,000	75	281,092	56.9%	494,285
Non-Departmental *	0	0	0.0%	0	252,776	1,041,541	67.9%	1,532,818
Interfund Transfers	0	1,666,216	52.0%	3,202,671	0	3,316,000	212.0%	1,564,000
Public Safety	35,021	4,187,044	51.8%	8,076,115	20,715	3,779,350	52.6%	7,179,563
Engineering & Environmental Services	72,768	1,010,654	66.1%	1,527,950	44,013	698,560	66.8%	1,045,741
Community Development	29,776	431,552	52.0%	830,030	34,602	512,492	71.9%	712,632
Developmental Services	121,338	976,587	60.3%	1,620,050	43,402	672,655	44.8%	1,501,147
Parks & Facility Maintenance	44,514	847,373	43.4%	1,954,409	66,971	738,323	43.6%	1,695,042
Total Expenditures	679,649	12,233,473	53.7%	22,772,720	560,844	12,799,687	67.7%	18,914,946
Ending Fund Balance		3,369,439		2,497,025			0.0%	5,844,678
Total Expenditures and Ending Fund Balance								
		15,602,912		25,269,745				24,759,624

*Non-Departmental expenditures have been moved to other General Fund Cost Centers

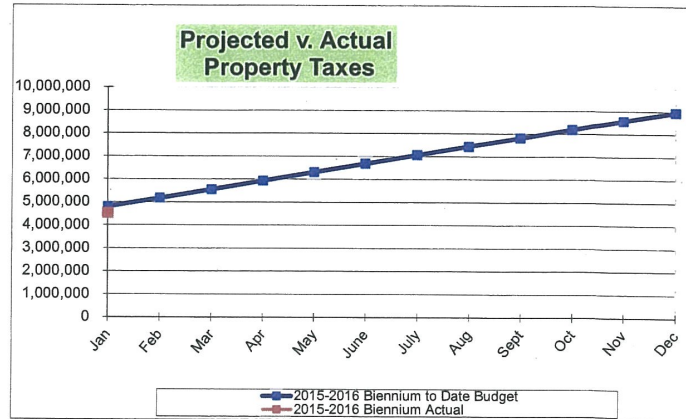
**City of Kenmore, Washington
General Fund Revenue Graphs
January 31, 2016**

PROPERTY TAXES

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	4,427,247	4,511,047
Jan	4,804,040	4,525,700
Feb	5,180,834	
Mar	5,557,627	
Apr	5,934,420	
May	6,311,213	
June	6,688,007	
July	7,064,800	
Aug	7,441,593	
Sept	7,818,386	
Oct	8,195,180	
Nov	8,571,973	
Dec	8,948,766	
2015-16	8,948,766	

Year To Date
Actual v. Projected

94%

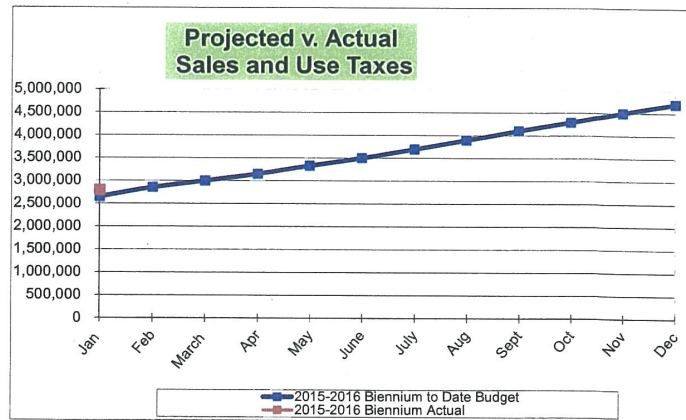


SALES, USE, CRIM JUSTICE TAXES

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	2,491,685	2,592,076
Jan	2,650,828	2,792,417
Feb	2,853,765	
March	3,000,413	
Apr	3,153,514	
May	3,333,030	
June	3,501,714	
July	3,696,509	
Aug	3,895,328	
Sept	4,102,013	
Oct	4,294,991	
Nov	4,500,931	
Dec	4,700,532	
2015-16	4,700,532	

Year To Date
Actual v. Projected

105%

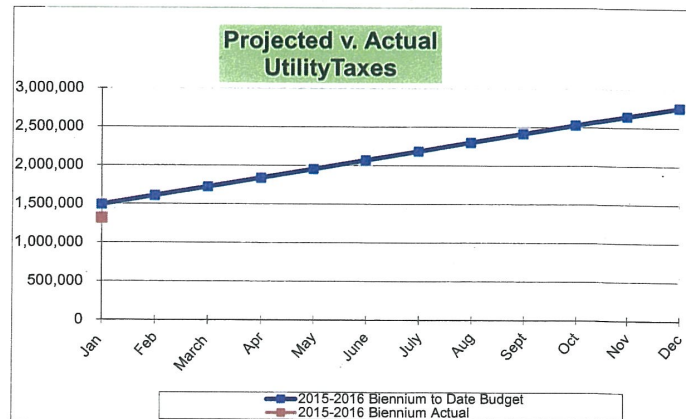


UTILITY TAXES

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	1,381,695	1,185,774
Jan	1,496,836	1,316,335
Feb	1,611,978	
March	1,727,119	
Apr	1,842,260	
May	1,957,401	
June	2,072,543	
July	2,187,684	
Aug	2,302,825	
Sept	2,417,966	
Oct	2,533,108	
Nov	2,648,249	
Dec	2,763,390	
2015-16	2,763,390	

Year To Date
Actual v. Projected

88%



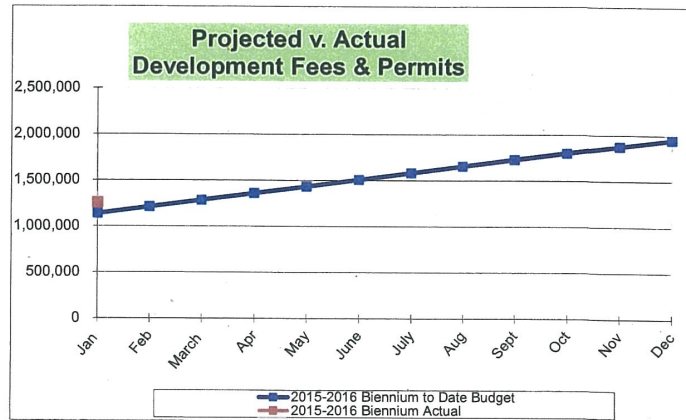
**City of Kenmore, Washington
General Fund Revenue Graphs
January 31, 2016**

DEVELOPMENT FEES & PERMITS

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	1,064,606	1,142,955
Jan	1,138,508	1,256,352
Feb	1,212,410	
March	1,286,313	
Apr	1,360,215	
May	1,434,117	
June	1,508,019	
July	1,581,921	
Aug	1,655,823	
Sept	1,729,726	
Oct	1,803,628	
Nov	1,877,530	
Dec	1,951,432	
2015-16	1,951,432	

Year To Date
Actual v. Projected

110%

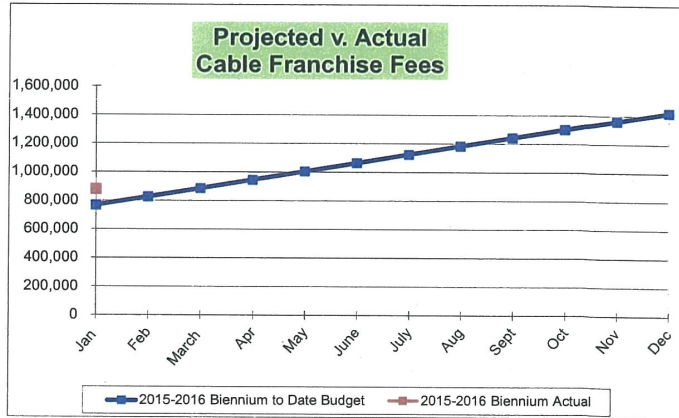


CABLE/WATER/SEWER FRANCHISE FEES

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	708,000	802,881
Jan	767,513	879,309
Feb	827,027	
March	886,540	
Apr	946,053	
May	1,005,567	
June	1,065,080	
July	1,124,593	
Aug	1,184,107	
Sept	1,243,620	
Oct	1,303,133	
Nov	1,362,647	
Dec	1,422,160	
2015-16	1,422,160	

Year To Date
Actual v. Projected

115%

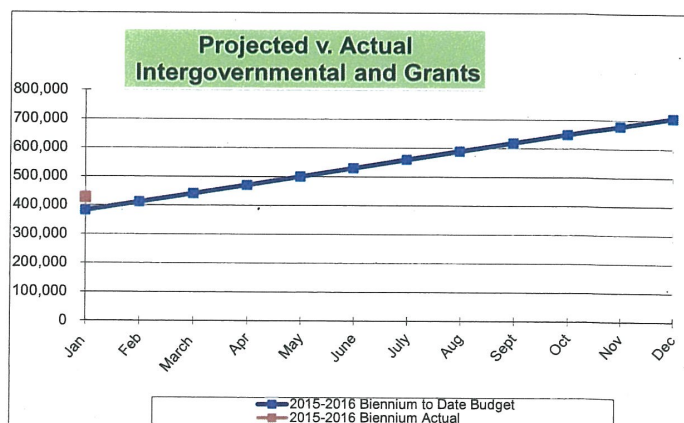


INTERGOVERNMENTAL & GRANTS

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	353,685	387,283
Jan	383,159	427,322
Feb	412,633	
March	442,106	
Apr	471,580	
May	501,054	
June	530,528	
July	560,001	
Aug	589,475	
Sept	618,949	
Oct	648,423	
Nov	677,896	
Dec	707,370	
2015-16	707,370	

Year To Date
Actual v. Projected

112%



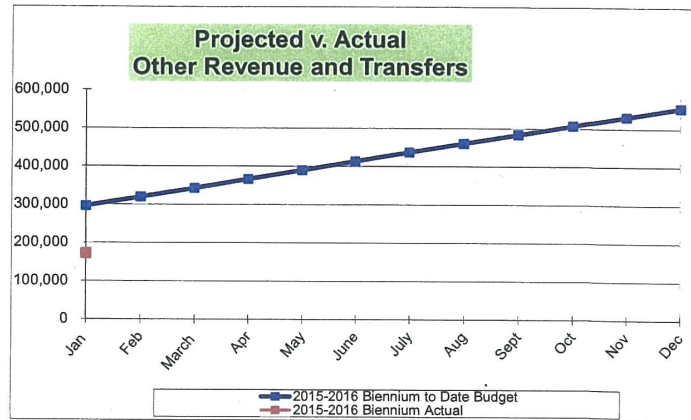
**City of Kenmore, Washington
General Fund Revenue Graphs
January 31, 2016**

OTHER REVENUES AND TRANSFERS

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	272,810	159,157
Jan	296,294	171,910
Feb	319,778	
March	343,263	
Apr	366,747	
May	390,231	
June	413,715	
July	437,199	
Aug	460,683	
Sept	484,168	
Oct	507,652	
Nov	531,136	
Dec	554,620	
2015-16	554,620	

Year To Date
Actual v. Projected

58%

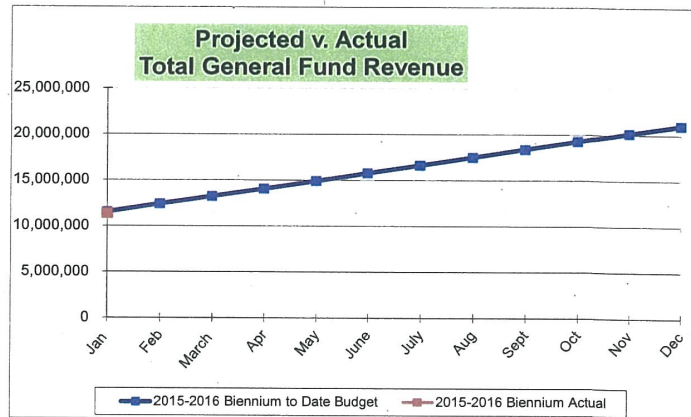


TOTAL GENERAL FUND REVENUE

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
Jan	11,537,179	11,369,345
Feb	12,418,424	
March	13,243,380	
Apr	14,074,789	
May	14,932,612	
June	15,779,604	
July	16,652,707	
Aug	17,529,834	
Sept	18,414,827	
Oct	19,286,114	
Nov	20,170,361	
Dec	21,048,270	

Year To Date
Actual v. Projected

99%



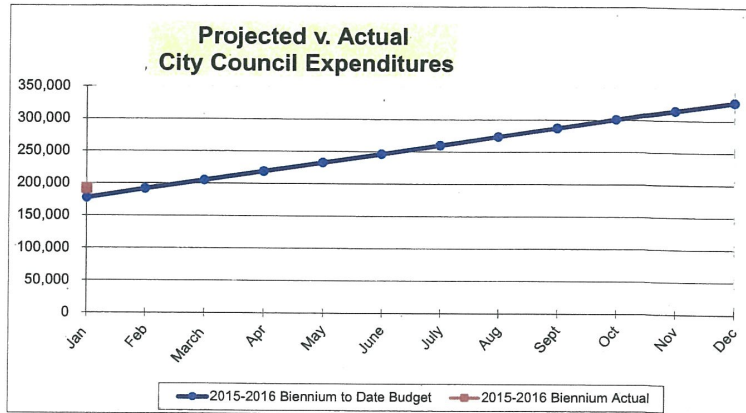
**City of Kenmore, Washington
General Fund Expenditure Graphs
January 31, 2016**

CITY COUNCIL

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	163,989	156,472
Jan	177,693	191,957
Feb	191,397	
March	205,101	
Apr	218,804	
May	232,508	
June	246,212	
July	259,916	
Aug	273,620	
Sept	287,324	
Oct	301,027	
Nov	314,731	
Dec	328,435	
2015-16	328,435	

Year To Date
Actual v. Projected

108%

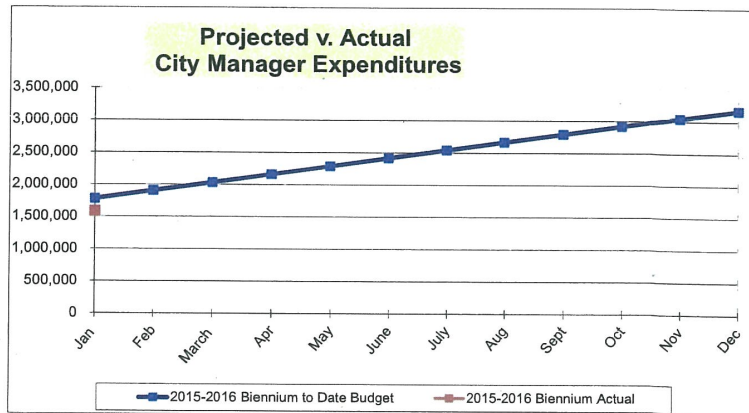


CITY MANAGER

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	1,652,808	1,482,207
Jan	1,779,509	1,582,540
Feb	1,906,210	
March	2,032,912	
Apr	2,159,613	
May	2,286,314	
June	2,413,015	
July	2,539,716	
Aug	2,666,417	
Sept	2,793,119	
Oct	2,919,820	
Nov	3,046,521	
Dec	3,173,222	
2015-16	3,173,222	

Year To Date
Actual v. Projected

89%

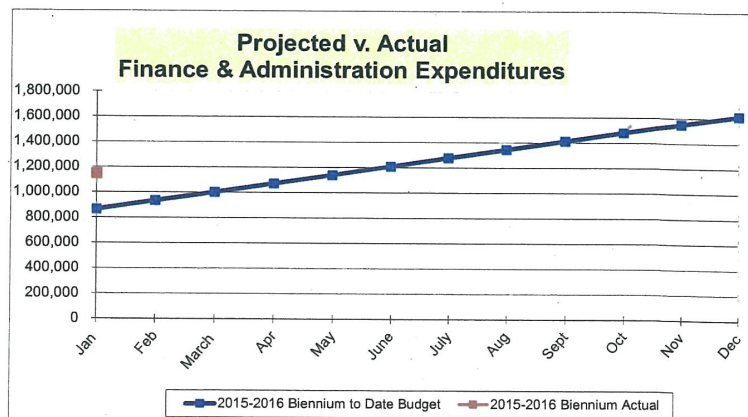


FINANCE & ADMINISTRATION

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	798,363	909,180
Jan	866,819	1,147,482
Feb	935,276	
March	1,003,732	
Apr	1,072,188	
May	1,140,644	
June	1,209,101	
July	1,277,557	
Aug	1,346,013	
Sept	1,414,469	
Oct	1,482,926	
Nov	1,551,382	
Dec	1,619,838	
2015-16	1,619,838	

Year To Date
Actual v. Projected

132%



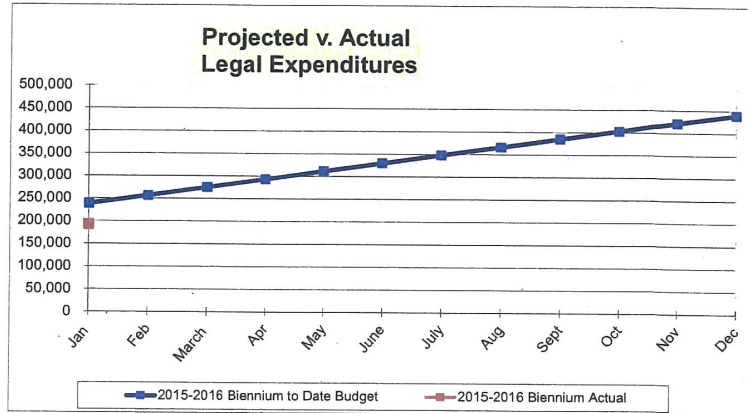
**City of Kenmore, Washington
General Fund Expenditure Graphs
January 31, 2016**

LEGAL

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	220,000	189,956
Jan	238,333	192,069
Feb	256,667	
March	275,000	
Apr	293,333	
May	311,667	
June	330,000	
July	348,333	
Aug	366,667	
Sept	385,000	
Oct	403,333	
Nov	421,667	
Dec	440,000	
2015-16	440,000	

Year To Date
Actual v. Projected

81%

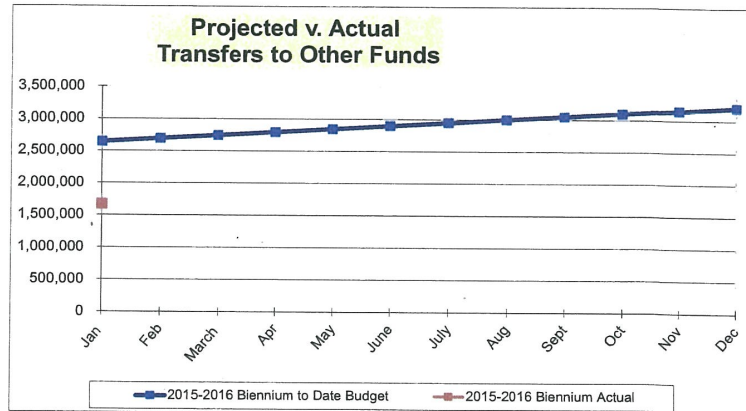


TRANSFERS TO OTHER FUNDS

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	2,588,786	1,666,216
Jan	2,639,943	1,666,216
Feb	2,691,100	
March	2,742,257	
Apr	2,793,414	
May	2,844,571	
June	2,895,729	
July	2,946,886	
Aug	2,998,043	
Sept	3,049,200	
Oct	3,100,357	
Nov	3,151,514	
Dec	3,202,671	
2015-16	3,202,671	

Year To Date
Actual v. Projected

63%

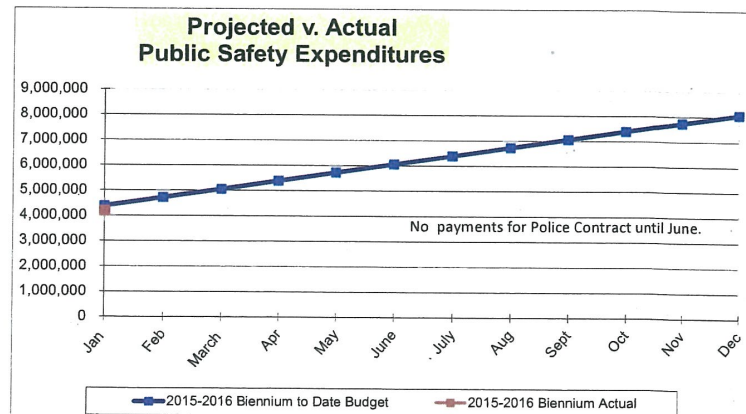


PUBLIC SAFETY

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	4,051,177	4,152,022
Jan	4,386,589	4,187,043
Feb	4,722,000	
March	5,057,412	
Apr	5,392,823	
May	5,728,235	
June	6,063,646	
July	6,399,058	
Aug	6,734,469	
Sept	7,069,881	
Oct	7,405,292	
Nov	7,740,704	
Dec	8,076,115	
2015-16	8,076,115	

Year To Date
Actual v. Projected

95%

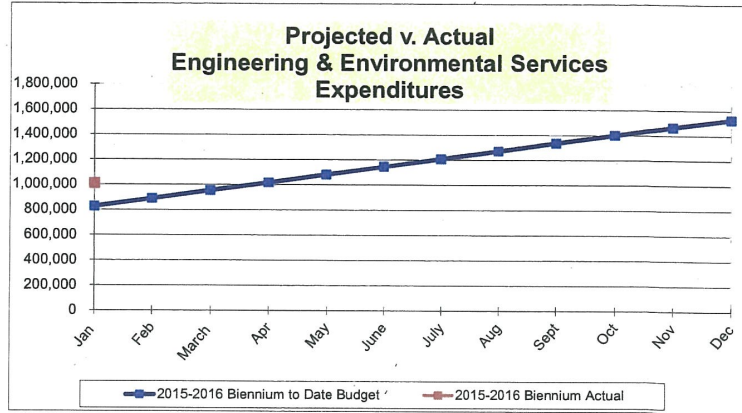


City of Kenmore, Washington
General Fund Expenditure Graphs
January 31, 2016
ENGINEERING & ENVIRONMENTAL SERVICES

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	763,129	937,886
Jan	826,864	1,010,654
Feb	890,599	
March	954,334	
Apr	1,018,069	
May	1,081,804	
June	1,145,540	
July	1,209,275	
Aug	1,273,010	
Sept	1,336,745	
Oct	1,400,480	
Nov	1,464,215	
Dec	1,527,950	
2015-16	1,527,950	

Year To Date
 Actual v. Projected

122%

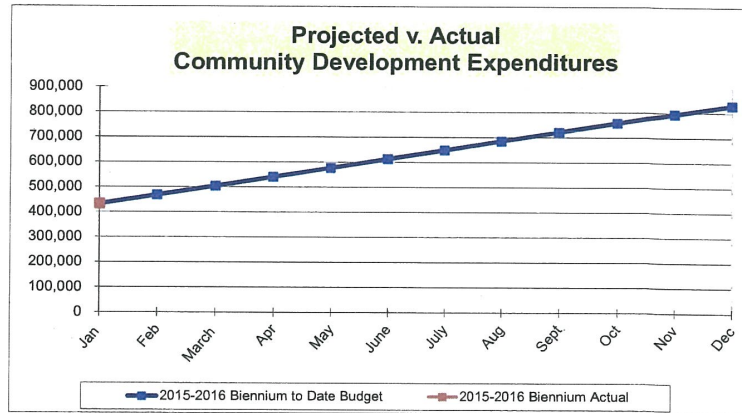


COMMUNITY DEVELOPMENT

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	395,834	401,776
Jan	432,017	431,552
Feb	468,200	
March	504,383	
Apr	540,566	
May	576,749	
June	612,932	
July	649,115	
Aug	685,298	
Sept	721,481	
Oct	757,664	
Nov	793,847	
Dec	830,030	
2015-16	830,030	

Year To Date
 Actual v. Projected

100%

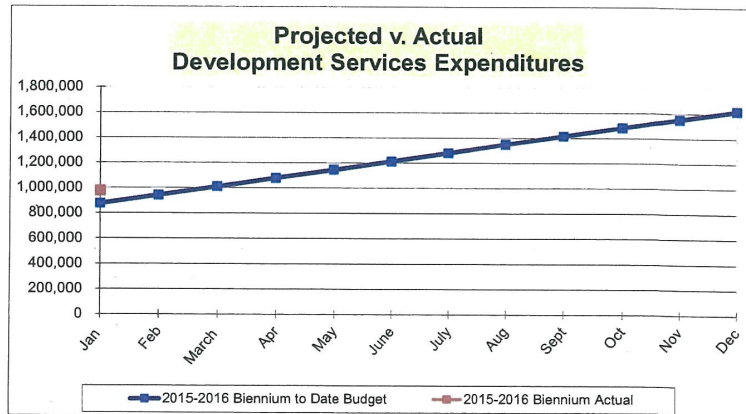


DEVELOPMENT SERVICES

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	808,496	855,249
Jan	876,126	976,587
Feb	943,755	
March	1,011,385	
Apr	1,079,014	
May	1,146,644	
June	1,214,273	
July	1,281,903	
Aug	1,349,532	
Sept	1,417,162	
Oct	1,484,791	
Nov	1,552,421	
Dec	1,620,050	
2015-16	1,620,050	

Year To Date
 Actual v. Projected

111%



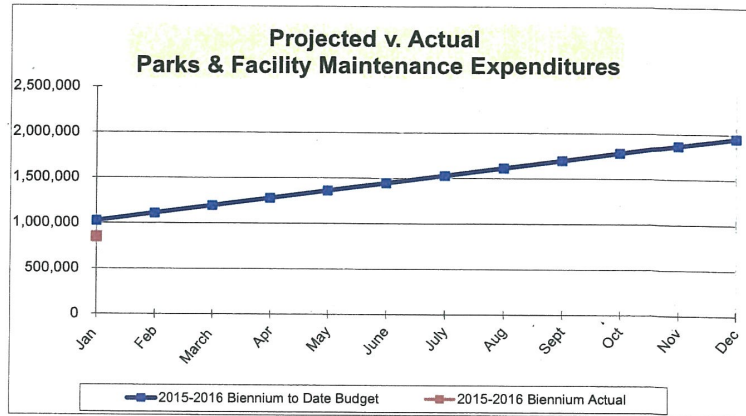
City of Kenmore, Washington
General Fund Expenditure Graphs
January 31, 2016

PARKS & FACILITY MAINTENANCE

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
2015	941,427	802,859
Jan	1,025,842	847,373
Feb	1,110,257	
March	1,194,673	
Apr	1,279,088	
May	1,363,503	
June	1,447,918	
July	1,532,333	
Aug	1,616,748	
Sept	1,701,164	
Oct	1,785,579	
Nov	1,869,994	
Dec	1,954,409	
2015-16	1,954,409	

Year To Date
 Actual v. Projected

83%

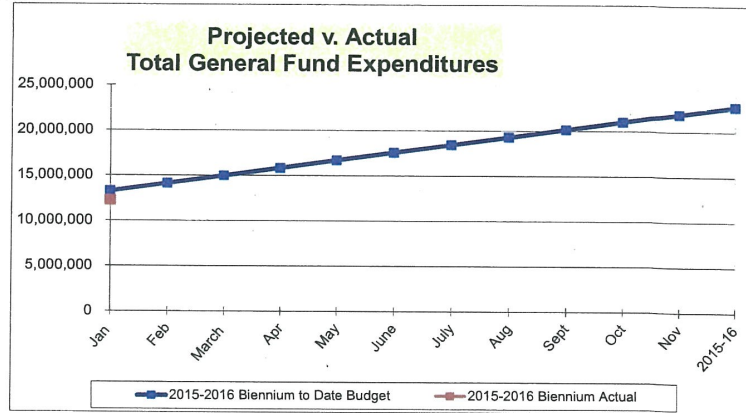


TOTAL GENERAL FUND EXPENDITURES

	2015-2016 Biennium to Date Budget	2015-2016 Biennium Actual
Jan	13,249,735	12,233,472
Feb	14,115,461	
March	14,981,187	
Apr	15,846,913	
May	16,712,639	
June	17,578,365	
July	18,444,090	
Aug	19,309,816	
Sept	20,175,542	
Oct	21,041,268	
Nov	21,906,994	
2015-16	22,772,720	

Year To Date
 Actual v. Projected

92%



**City of Kenmore, Washington
Street Fund Summary Report
January 31, 2016**



	Current	BIENNIUM TO DATE	% of	BUDGET
	<u>January 2016</u>	<u>2015-2016</u>	<u>BUDGET</u>	<u>2015-2016</u>
REVENUES				
Beginning Fund Balance		899,288		899,288
Fuel Tax	35,320	479,291	55.0%	871,531
Investment Interest	0	4,458	-	0
Miscellaneous	88	1,348	-	0
ROW Permit Fees/Inspections	0	142,040	78.9%	180,000
Transfer from General Fund	0	485,430	58.3%	833,000
Transfer from TBD	0	232,000	48.8%	475,000
Total Revenues	35,408	1,344,567	57.0%	2,359,531

Total Revenues & Beginning Fund Balance	2,243,855	3,258,819
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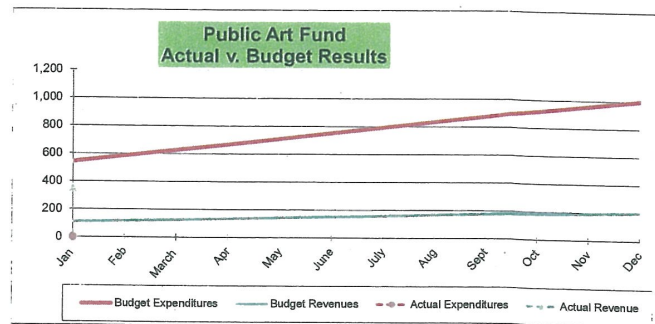
	Current	BIENNIUM TO DATE	% of	BUDGET
	<u>January 2016</u>	<u>2015-2016</u>	<u>BUDGET</u>	<u>2015-2016</u>
EXPENDITURES				
Salary and Benefits	22,078	310,953	53.8%	577,783
Maintenance & Operations	71,188	820,186	46.6%	1,760,494
Capital	691	32,132	97.4%	33,000
Transfer to Transportation Capita	0	320,597	80.1%	400,000
Total Expenditures	93,957	1,483,868	53.5%	2,771,277

Ending Fund Balance	759,987	487,542
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Total Expenditures and Ending Fund Balance	2,243,855	3,258,819
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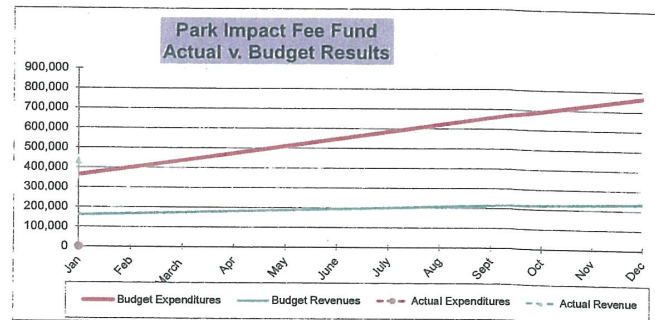
City of Kenmore, Washington
Other Funds Monthly Activity
January 31, 2016

PUBLIC ART FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	500	0	100	352
Jan	542	0	108	352
Feb	583		117	
March	625		125	
Apr	667		133	
May	708		142	
June	750		150	
July	792		158	
Aug	833		167	
Sept	875		175	
Oct	917		183	
Nov	958		192	
Dec	1,000		200	
2015-16	1,000		200	
Total Actual to Date vs Total Budget		0%		176%



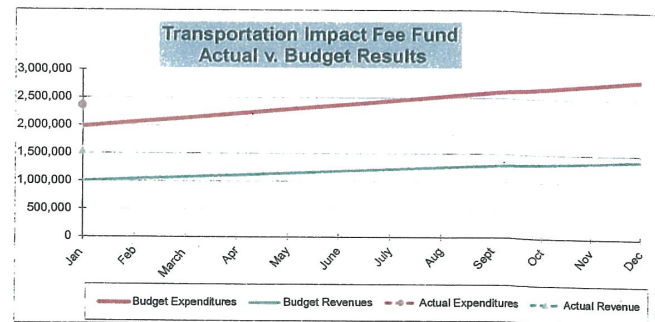
This fund accounts for public art authorized by Ordinance 01-0115. One percent (1%) of public project construction contracts is contributed to this fund to provide for public art displays or performing arts events as authorized by the City Council.

PARK IMPACT FEE FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	325,000	0	154,878	396,247
Jan	361,706	0	161,477	437,063
Feb	398,412		168,076	
March	435,118		174,674	
Apr	471,824		181,273	
May	508,530		187,872	
June	545,236		194,471	
July	581,941		201,069	
Aug	618,647		207,668	
Sept	655,353		214,267	
Oct	692,059		220,866	
Nov	728,765		227,464	
Dec	765,471		234,063	
2015-16	765,471		234,063	
Total Actual to Date vs Total Budget		0%		187%



This fund accounts for City imposed park impact fees on new development. Expenditures are for public park acquisitions and improvements.

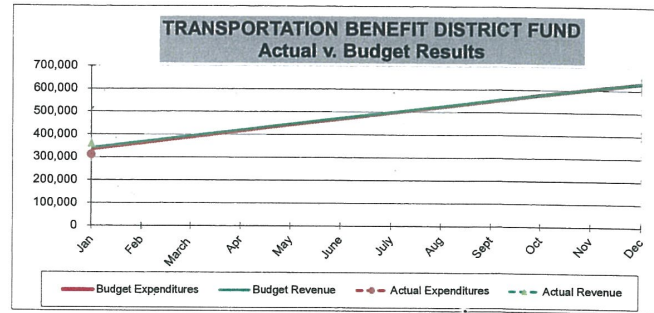
TRANSPORTATION IMPACT FEE FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	1,904,780	2,360,000	975,257	1,413,466
Jan	1,981,444	2,360,000	1,010,424	1,548,410
Feb	2,058,108		1,045,590	
March	2,134,773		1,080,757	
Apr	2,211,437		1,115,924	
May	2,288,101		1,151,090	
June	2,364,765		1,186,257	
July	2,441,429		1,221,424	
Aug	2,518,093		1,256,590	
Sept	2,594,758		1,291,757	
Oct	2,671,422		1,326,924	
Nov	2,748,086		1,362,090	
Dec	2,824,750		1,397,257	
2015-16	2,824,750		1,397,257	
Total Actual to Date vs Total Budget		84%		111%



This fund accounts for City imposed transportation impact fees on new development. Expenditures are for public transportation improvements.

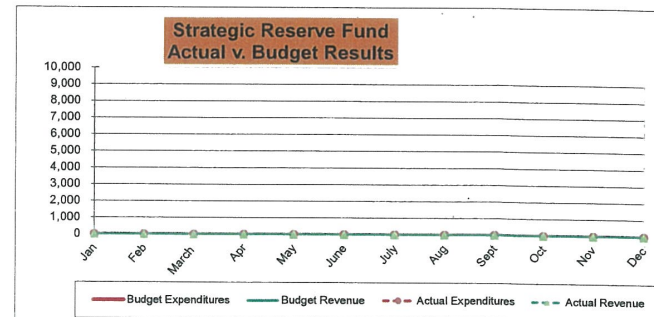
City of Kenmore, Washington
Other Funds Monthly Activity
January 31, 2016

TRANSPORTATION BENEFIT DISTRICT FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	309,500	309,500	315,100	334,634
Jan	336,208	312,000	341,358	362,255
Feb	362,917		367,617	
March	389,625		393,875	
Apr	416,333		420,133	
May	443,042		446,392	
June	469,750		472,650	
July	496,458		498,908	
Aug	523,167		525,167	
Sept	549,875		551,425	
Oct	576,583		577,683	
Nov	603,292		603,942	
Dec	630,000		630,200	
2015-16	630,000		630,200	
Total Actual to Date vs Total Budget		50%		57%



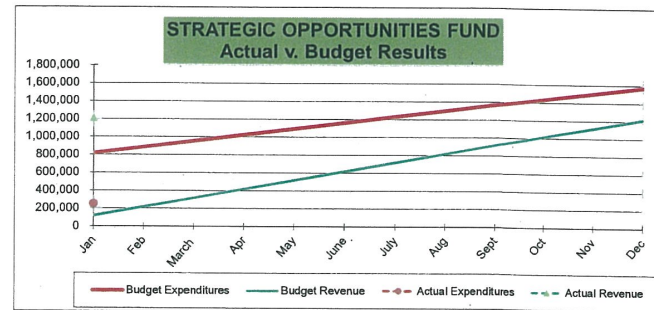
The Transportation Benefit District fund accounts for the \$20 vehicle license tab fees levied on vehicles located in the Kenmore city limits. The revenue generated will be used in maintaining the City's transportation system.

STRATEGIC RESERVE FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	0	0	0	0
Jan	0	0	0	0
Feb	0	0	0	0
March	0	0	0	0
Apr	0	0	0	0
May	0	0	0	0
June	0	0	0	0
July	0	0	0	0
Aug	0	0	0	0
Sept	0	0	0	0
Oct	0	0	0	0
Nov	0	0	0	0
Dec	0	0	0	0
2015-16	0	0	0	0
Total Actual to Date vs Total Budget		0%		0%



This fund was created to serve as the City's emergency reserve fund. Per State Statute, the fund cannot exceed \$.375 per \$1,000 of the City's assessed value and is fully funded at \$1,264,464 for 2011. No expenditures are anticipated or have been budgeted at this time.

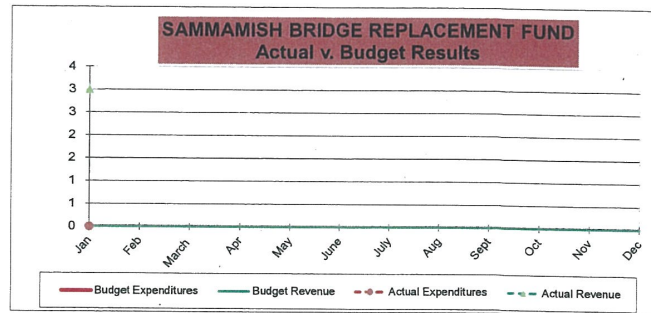
STRATEGIC OPPORTUNITIES FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	746,200	247,741	20,943	1,211,827
Jan	814,950	252,597	120,693	1,214,052
Feb	883,700		220,444	
March	952,450		320,194	
Apr	1,021,200		419,944	
May	1,089,950		519,694	
June	1,158,700		619,444	
July	1,227,450		719,195	
Aug	1,296,200		818,945	
Sept	1,364,950		918,695	
Oct	1,433,700		1,018,446	
Nov	1,502,450		1,118,196	
Dec	1,571,200		1,217,946	
2015-16	1,571,200		1,217,946	
Total Actual to Date vs Total Budget		16%		100%



The purpose of the Strategic Opportunities Fund is to have funds available for the City to make key investments or take advantage of strategic opportunities as they present themselves. For 2015-16, the Business Incubator expenditures are budgeted in this fund.

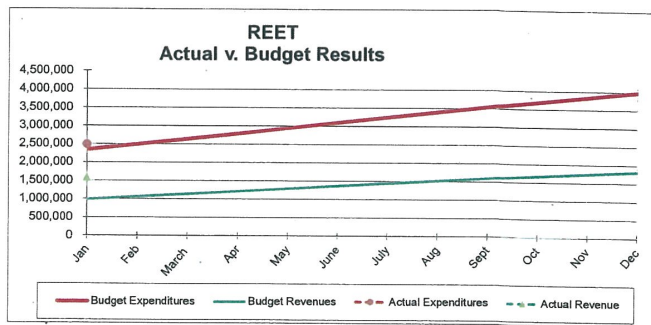
City of Kenmore, Washington
Other Funds Monthly Activity
January 31, 2016

SAMMAMISH BRIDGE REPLACEMENT FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	0	0	0	3
Jan	0	0	0	3
Feb	0	0	0	
March	0	0	0	
Apr	0	0	0	
May	0	0	0	
June	0	0	0	
July	0	0	0	
Aug	0	0	0	
Sept	0	0	0	
Oct	0	0	0	
Nov	0	0	0	
Dec	0	0	0	
2015-16	0	0	0	
Total Actual to Date vs Total Budget		0%		0%



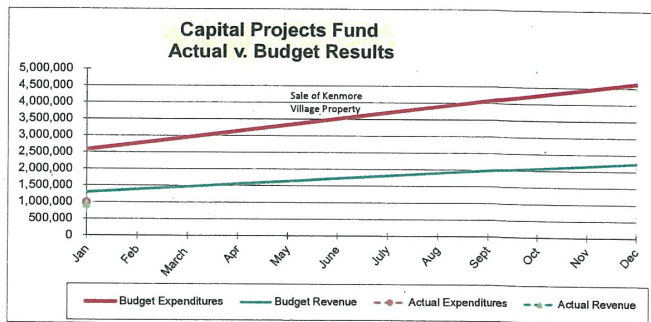
The Sammamish Bridge Replacement fund is a fund used to put money aside for the replacement of the West Sammamish bridge.

REAL ESTATE EXCISE TAX FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	2,191,250	2,484,359	914,000	1,464,658
Jan	2,340,921	2,484,359	990,083	1,587,477
Feb	2,490,593		1,066,167	
March	2,640,264		1,142,250	
Apr	2,789,935		1,218,333	
May	2,939,607		1,294,417	
June	3,089,278		1,370,500	
July	3,238,949		1,446,583	
Aug	3,388,621		1,522,667	
Sept	3,538,292		1,598,750	
Oct	3,687,963		1,674,833	
Nov	3,837,635		1,750,917	
Dec	3,987,306		1,827,000	
2015-16	3,987,306		1,827,000	
Total Actual to Date vs Total Budget		62%		87%



The Real Estate Excise Tax Fund accounts for the 1/2% real estate excise taxes levied by the City which are restricted to capital projects and improvements. Expenditures include transfers to the Park Capital Fund for park improvements and Transportation Capital Fund for transportation improvements.

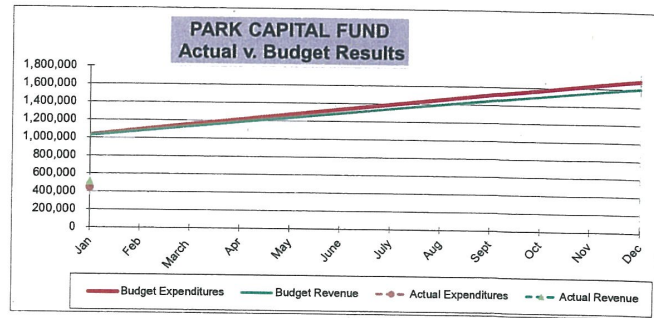
KENMORE VILLAGE FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	2,389,500	1,003,897	1,219,200	939,764
Jan	2,576,306	986,635	1,304,842	939,764
Feb	2,763,112		1,390,483	
March	2,949,917		1,476,125	
Apr	3,136,723		1,561,767	
May	3,323,529		1,647,408	
June	3,510,335		1,733,050	
July	3,697,140		1,818,692	
Aug	3,883,946		1,904,333	
Sept	4,070,752		1,989,975	
Oct	4,257,558		2,075,617	
Nov	4,444,363		2,161,258	
Dec	4,631,169		2,246,900	
2015-16	4,631,169		2,246,900	
Total Actual to Date vs Total Budget		21%		42%



The Kenmore Village Fund accounts for leasing activity and property transactions within Kenmore Village

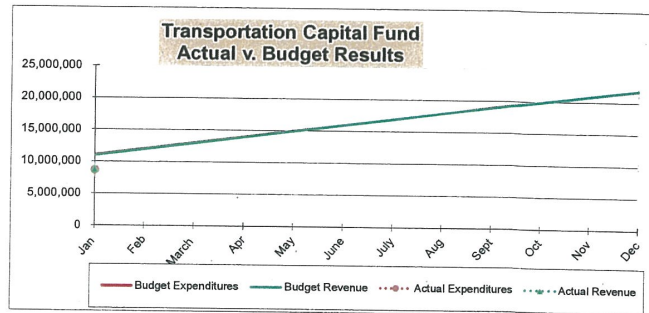
City of Kenmore, Washington
Other Funds Monthly Activity
January 31, 2016

PARK CAPITAL FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	974,000	437,373	975,200	521,437
Jan	1,033,769	448,504	1,027,698	521,437
Feb	1,093,539		1,080,196	
March	1,153,308		1,132,694	
Apr	1,213,078		1,185,191	
May	1,272,847		1,237,689	
June	1,332,617		1,290,187	
July	1,392,386		1,342,685	
Aug	1,452,155		1,395,183	
Sept	1,511,925		1,447,681	
Oct	1,571,694		1,500,178	
Nov	1,631,464		1,552,676	
Dec	1,691,233		1,605,174	
2015-16	1,691,233		1,605,174	
Total Actual to Date vs Total Budget		27%		32%



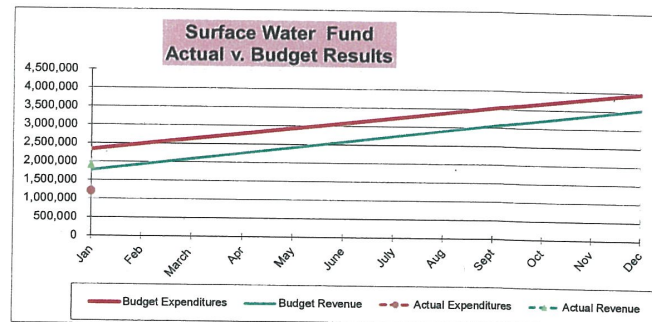
The Park Capital fund will account for Park Capital Projects formerly included in the Municipal Capital fund. In addition, distributions from the King County Proposition 2 Parks Expansion Levy will be receipted into this fund

TRANSPORTATION CAPITAL FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	10,039,810	8,637,374	9,989,310	8,681,369
Jan	11,023,357	8,669,016	10,977,781	8,856,349
Feb	12,006,905		11,966,251	
March	12,990,452		12,954,722	
Apr	13,973,999		13,943,192	
May	14,957,546		14,931,663	
June	15,941,094		15,920,133	
July	16,924,641		16,908,604	
Aug	17,908,188		17,897,074	
Sept	18,891,735		18,885,545	
Oct	19,875,283		19,874,015	
Nov	20,858,830		20,862,486	
Dec	21,842,377		21,850,956	
2015-16	21,842,377		21,850,956	
Total Actual to Date vs Total Budget		40%		41%



The Transportation Capital Fund accounts for capital improvements to the City's streets and SR 522, funded by various grants plus City resources from real estate excise tax and transportation impact fees. All phases of improvements to SR 522 are now accounted for in this fund. There is a time lag between project expenditures and reimbursements from grants; this accounts for the lower revenues compared to the expenditures.

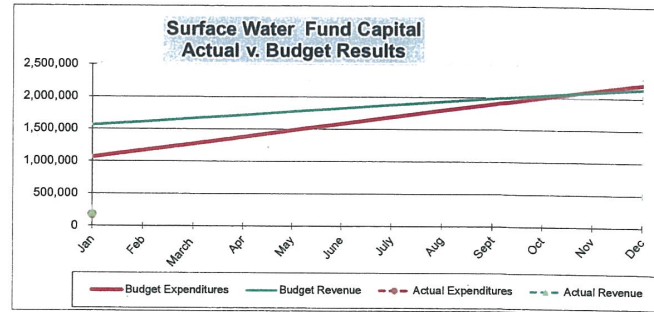
SURFACE WATER MANAGEMENT FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	2,188,308	1,115,684	1,620,000	1,915,280
Jan	2,336,430	1,207,683	1,780,000	1,922,104
Feb	2,484,553		1,940,000	
March	2,632,675		2,100,000	
Apr	2,780,797		2,260,000	
May	2,928,920		2,420,000	
June	3,077,042		2,580,000	
July	3,225,164		2,740,000	
Aug	3,373,287		2,900,000	
Sept	3,521,409		3,060,000	
Oct	3,669,531		3,220,000	
Nov	3,817,654		3,380,000	
Dec	3,965,776		3,540,000	
2015-16	3,965,776		3,540,000	
Total Actual to Date vs Total Budget		30%		54%



This fund accounts for receipts from surface water assessments. The assessments are collected through the property tax billings; the majority of the receipts are collected in May and November. Expenditures are for surface water maintenance activities such as sweeping and drainage as well as capital improvements.

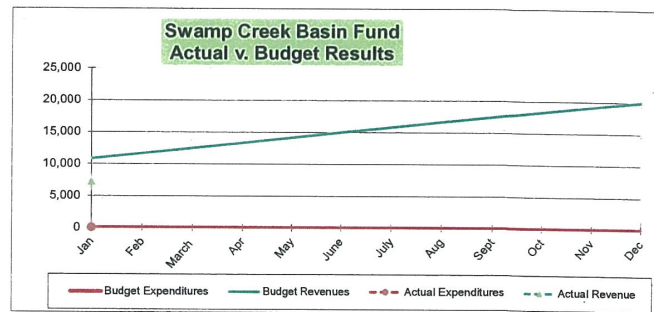
City of Kenmore, Washington
Other Funds Monthly Activity
January 31, 2016

SURFACE WATER CAPITAL FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	960,611	176,312	1,506,266	204,826
Jan	1,064,685	176,312	1,559,036	204,826
Feb	1,168,759		1,611,805	
March	1,272,833		1,664,575	
Apr	1,376,907		1,717,344	
May	1,480,981		1,770,114	
June	1,585,056		1,822,883	
July	1,689,130		1,875,653	
Aug	1,793,204		1,928,422	
Sept	1,897,278		1,981,192	
Oct	2,001,352		2,033,961	
Nov	2,105,426		2,086,731	
Dec	2,209,500		2,139,500	
2015-16	2,209,500		2,139,500	
Total Actual to Date vs Total Budget		8%		10%



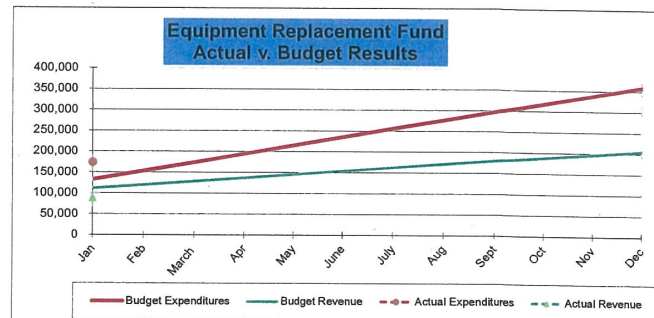
This fund accounts for the expenditures for Surface Water Capital Improvements. Revenue sources for this fund include a variety of federal, state, or local grants, surface water management fees transferred from the Surface Water Management Fund and real estate excise taxes.

SWAMP CREEK BASIN FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	0	0	10,000	7,271
Jan	0	0	10,833	7,271
Feb	0		11,667	
March	0		12,500	
Apr	0		13,333	
May	0		14,167	
June	0		15,000	
July	0		15,833	
Aug	0		16,667	
Sept	0		17,500	
Oct	0		18,333	
Nov	0		19,167	
Dec	0		20,000	
2015-16	0		20,000	
Total Actual to Date vs Total Budget		0%		36%



This fund accounts for the Memorandum of Agreement with King County which provided funds reserved for surface water projects, improvements, and maintenance within the Swamp Creek Basin.

EQUIPMENT REPLACEMENT FUND				
	2015-2016 Budget Expenditures	2015-2016 Actual Expenditures	2015-2016 Budget Revenue	2015-2016 Actual Revenue
2015	112,000	173,486	103,000	89,227
Jan	132,531	173,486	111,583	89,227
Feb	153,063		120,167	
March	173,594		128,750	
Apr	194,125		137,333	
May	214,656		145,917	
June	235,188		154,500	
July	255,719		163,083	
Aug	276,250		171,667	
Sept	296,781		180,250	
Oct	317,313		188,833	
Nov	337,844		197,417	
Dec	358,375		206,000	
2015-16	358,375		206,000	
Total Actual to Date vs Total Budget		48%		43%



This fund is used to maintain a reserve for future replacement of equipment, including, but not limited to furniture, computers and vehicles. Payments are received from various operating departments and funds that benefit from or use the assets.

City of Kenmore, Washington
Cash and Investment Report
January 31, 2016



Fund	Beg. Cash & Inv. from Prev. Mo.	Monthly Revenues	Monthly Expenditures	End. Cash & Inv. Current Month
General	\$3,461,614	\$588,172	\$679,649	3,370,137
Street	818,846	35,408	93,957	760,297
Transportation Capital	1,036,173	174,980	31,642	1,179,511
Public Art	67,652	0	0	67,652
Park Impact Fee	1,153,677	40,816	0	1,194,493
Transportation Impact Fee	216,396	134,944	0	351,340
Swamp Creek Basin	1,404,933	0	0	1,404,933
Transportation Benefit District	34,065	27,621	2,500	59,186
Sammamish Bridge Replacement	514	0	0	514
Real Estate Excise Tax	405,769	122,819	0	528,587
Kenmore Village	2,323,902	0	-17,262	2,341,164
Park Capital	84,631	0	11,131	73,500
Surface Water Management	2,283,762	6,824	91,999	2,198,587
Surface Water Capital	12,165	0	0	12,165
Strategic Reserve	1,264,465	0	0	1,264,465
Strategic Opportunities	3,110,973	2,225	4,856	3,108,342
Equipment Replacement	370,415	0	0	370,415
Trust & Agency	483,083	371	8,896	474,558
Totals	\$18,533,033	\$1,134,180	\$907,368	\$18,759,845

Fund	Cash, Savings, Local Govt Investment Pool	(> One Year) Fixed Investments	Total
General	-\$2,870,749	\$6,254,802	3,384,053
Street	-89,704	850,000	760,296
Transportation Capital	187,730	0	187,730
Public Art	52,652	15,000	67,652
Park Impact Fee	259,836	930,000	1,189,836
Transportation Impact Fee	321,342	30,000	351,342
Swamp Creek Basin	4,934	1,400,000	1,404,934
Transportation Benefit District	59,183	0	59,183
Sammamish Bridge Replacement	516	0	516
Real Estate Excise Tax	1,517,331	0	1,517,331
Kenmore Village	1,889,376	450,000	2,339,376
Park Capital	73,501	0	73,501
Surface Water Management	1,686,801	510,000	2,196,801
Surface Water Capital	12,164	0	12,164
Strategic Reserve	414,465	850,000	1,264,465
Strategic Opportunities	3,108,342	0	3,108,342
Equipment Replacement	-79,585	450,000	370,415
Trust & Agency	374,557	100,000	474,557
Totals	\$6,922,692	\$11,839,802	\$18,762,493

City of Kenmore, Washington
Investment Schedule
January 31, 2016



Report by Security	Investment #	Type	Average Yield to Maturity-Securities				Possible Call Date	Overall Average Yield Principal or Balance	0.69% Yield Equivalents
			Maturity Date	Purchase Date	Rate	Yield			
Piper Jaffray									
	31771J4M9	FICO	9/26/2017	8/14/2012	1.13%	1.13%	non callable	894,731.88	10,137.31
Total Piper Jaffrey Purchases								894,731.88	10,137.31
Time Value Investments									
	31359MEL3	FNMA	4/22/2017	10/22/2012	0.86%	0.86%	no call	999,468.08	8,595.43
	31771EAL5	FICO	2/8/2018	1/13/2015	1.15%	1.15%		999,114.48	11,489.82
	3134G43V8	FHLB	5/15/2018	7/23/2014	1.36%	1.36%		988,450.00	13,462.69
	3135G0XK4	FNMA	5/25/2018	11/25/2013	1.38%	1.38%		985,750.00	13,583.64
	3135G0XK4	FNMA	5/25/2018	2/27/2014	1.30%	1.30%		989,691.00	12,865.98
	3133EA5T1	FFCB	1/23/2019	7/23/2014	1.59%	1.59%		984,270.00	15,689.26
	3135G0G23	FNMA	4/29/2019	11/24/2015	1.35%	1.35%	4/26/2016	998,326.00	13,477.40
Total TVI Purchases								6,945,069.56	89,164.21
Banner Bank CD's									
	5740005425	CD	2/6/2016	2/6/2014	0.32%	0.32%		1,000,000.00	3,200.00
Total Banner Bank CD's								1,000,000.00	3,200.00
Sound Community Bank CD's									
	18299229	CD	2/11/2016	2/14/2014	0.80%	0.80%		1,000,000.00	8,000.00
Total Sound Community Bank CD's								1,000,000.00	8,000.00
Opus Bank CD's									
	11495975	CD	2/10/17	6/10/15	0.35%	0.35%		1,000,000.00	3,500.00
	11527322	CD	6/30/16	6/30/2015	0.45%	0.45%		1,000,000.00	4,500.00
Total Cascade Bank CD's								2,000,000.00	8,000.00
TOTAL ALL SECURITIES								\$ 11,839,801.44	\$ 118,501.53
		Banner Checking and Savings				0.07% Banner		3,165,208.31	2,215.65
		Cash						1,005.00	-
		Local Government Investment Pool				0.25% LGIP		3,756,473.76	9,511.39
		Total Accounts						\$ 18,762,488.51	130,228.56

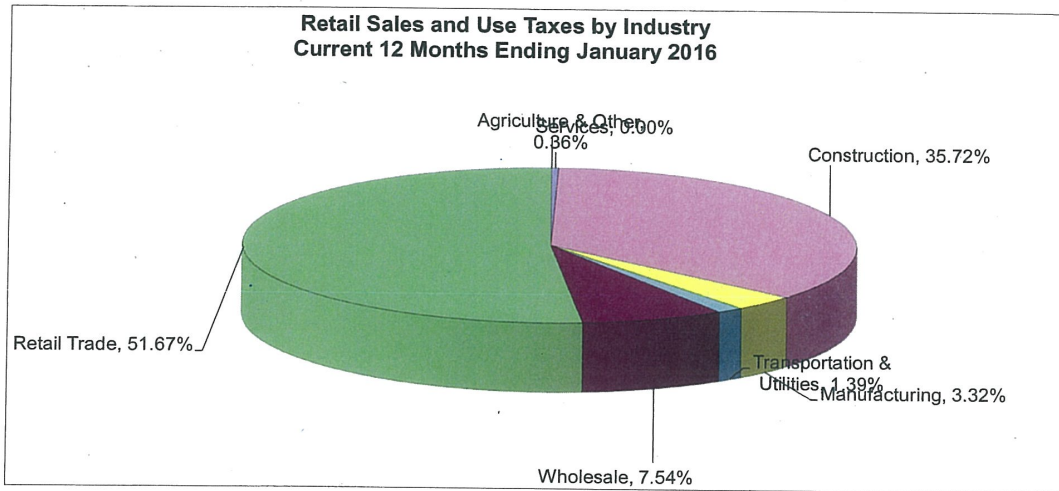
City of Kenmore, Washington
SALES TAX RECEIPTS BY BUSINESS TYPE
 January 2016

	SALES TAX	USE TAX	TOTAL	PERCENT
AGRICULTURE & OTHER	95.99	0.00	95.99	0.1%
CONSTRUCTION	42,967.59	629.56	43,597.15	28.0%
MANUFACTURING	2,659.75	11.02	2,670.77	1.7%
TRANSPORTATION & UTILITIES	367.16	216.51	583.67	0.4%
WHOLESALE	8,760.48	85.63	8,846.11	5.7%
RETAIL TRADE	58,841.27	226.06	59,067.33	37.9%
SERVICES	30,715.45	398.64	31,114.09	20.0%
INFORMATION	8,635.26	47.42	8,682.68	5.6%
PUBLIC SERVICES	50.66	1,058.08	1,108.75	0.7%
	<u>153,093.63</u>	<u>2,672.92</u>	<u>155,766.55</u>	<u>100.0%</u>

City of Kenmore, Washington
Retail Sales and Use Tax Distribution
January 31, 2016

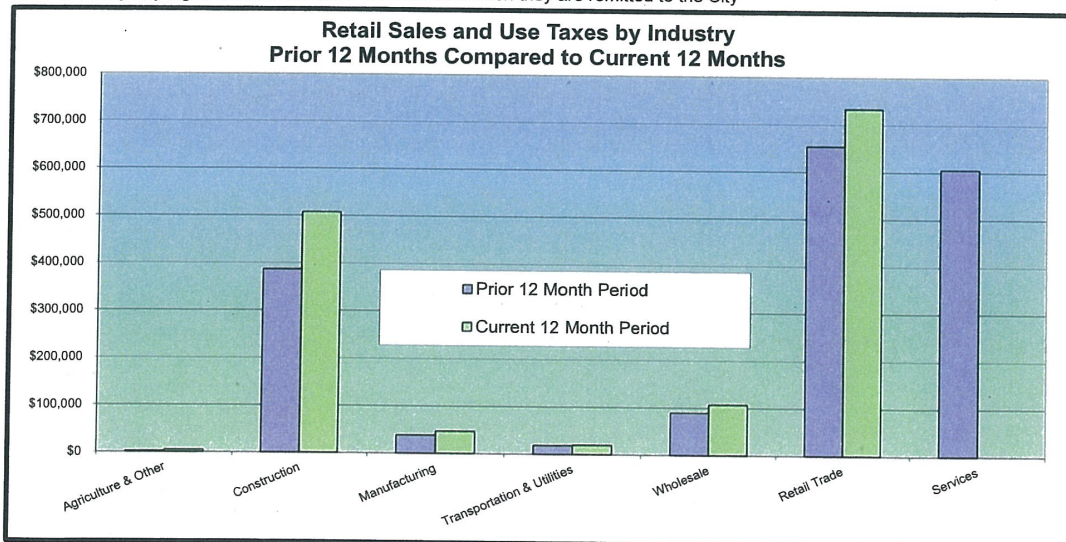


Industry	Prior 12 Months ending January 2015	Current 12 Months ending January 2016	% Increase/ (Decrease)	% of Total
Agriculture & Other (Landscaping, Animal Hospitals)	\$2,140	\$5,100	138.34%	0.36%
Construction	386,097	506,968 *	31.31%	35.72%
Manufacturing (Printing, Publishing, Other Manuf.)	38,355	47,120	22.85%	3.32%
Transp/Comm/Utilities (Telecomm., Air Transport.)	18,773	19,779	5.36%	1.39%
Wholesale (Lumber, Other Wholesale)	89,451	106,961	19.57%	7.54%
Retail Trade (Eating, Merchandise, Food Stores)	653,806	733,253	12.15%	51.67%
Services (Auction, Recreation, Auto Repair, Financial)	605,412		-100.00%	0.00%
Totals	\$1,794,034	\$1,419,181	-20.89%	100%
Increase/(Decrease)		(\$374,854)	-20.89%	



NOTE: Due to the City's Confidentiality Agreement with the Department of Revenue, specific business information cannot be disclosed.

There is a sixty-day lag between sales taxes collected and when they are remitted to the City



City of Kenmore, Washington
Real Estate Excise Tax Report
January 31, 2016

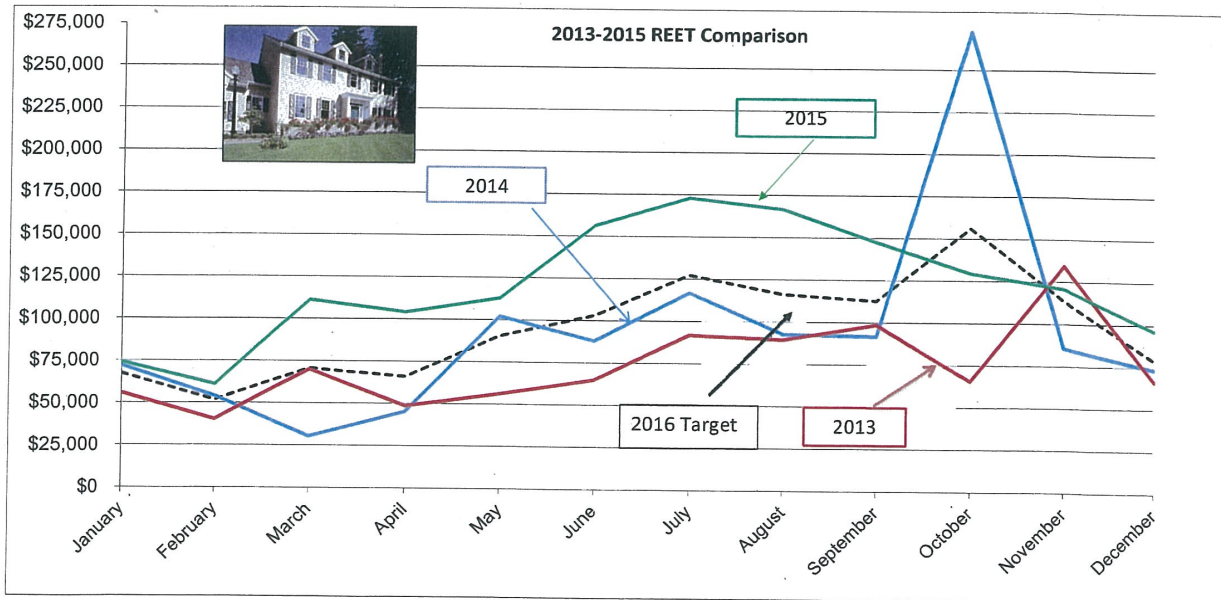


Real Estate Excise Taxes (REET) 2012 - 2016 Monthly Receipts						
	Actual 2012	Actual 2013	Actual 2014	Actual 2015	Actual 2016	Target 2016
January	54,359	55,801	72,106	74,259	122,819	67,389
February	18,064	40,281	54,038	61,070		51,797
March	29,691	69,946	30,426	111,337		70,570
April	30,662	48,671	45,118	104,280		66,023
May	52,575	56,178	102,257	112,927		90,454
June	60,408	64,938	88,070	156,338		103,116
July	81,316	91,779	116,858	173,095		127,244
August	56,626	89,496	92,932	166,651		116,360
September	82,785	98,573	91,812	147,668		112,684
October	60,265	65,596	272,842	129,678		156,039
November	88,057	134,286	85,748	120,907		113,647
December	152,262	66,342	73,582	96,566		78,830
	\$767,070	\$881,886	\$1,125,790	\$1,454,776	\$122,819	\$924,916

For 2016, REET is \$48,560
more than the same period
last year and more than the 2016
target by \$55,430

* NOTE THE 2016 target
is computed on a 3 year average
(2013-2015) of actual receipts

Real Estate Excise Taxes (REET) 2012 - 2016 Property Sales > \$500,000								
The sales actually occur in the prior month; there is a 30 day lag between sales and when the City receives the revenue								
	Taxes from > \$500,000 Sale Amounts							
	2012	2013	2014	2015	2016	2013	2014	2015
January	5,515,283	3,380,165	4,699,850	7,418,000	18,590,517	16,732	23,264	36,719
February	1,152,000	3,417,500	3,930,920	6,607,900		16,917	19,458	32,709
March	750,000	3,514,000	2,175,430	7,874,934		17,394	10,768	38,981
April	870,000	1,570,450	4,266,725	14,291,370		7,774	21,120	70,742
May	2,796,250	3,634,210	12,347,730	14,068,904		17,989	61,121	69,641
June	1,215,000	2,761,500	7,353,999	20,361,466		13,669	36,402	100,789
July	4,196,500	8,478,706	15,071,601	25,571,387		41,970	74,604	126,578
August	1,756,200	6,131,455	5,882,306	22,614,538		30,351	29,117	111,942
September	4,859,500	10,911,500	8,437,700	18,821,380		54,012	41,767	93,166
October	3,087,500	5,568,400	44,456,605	16,519,240		27,564	220,060	81,770
November	8,334,960	18,620,230	8,922,100	14,736,156		92,170	44,164	72,944
December	23,033,200	4,606,450	7,142,900	13,187,535		22,802	35,357	65,278
	\$57,566,393	\$72,594,566	\$124,687,866	\$182,072,810		359,344	617,202	901,259
								92,023



City of Kenmore, Washington
Monthly Report for Kenmore Village Fund
January 31, 2016



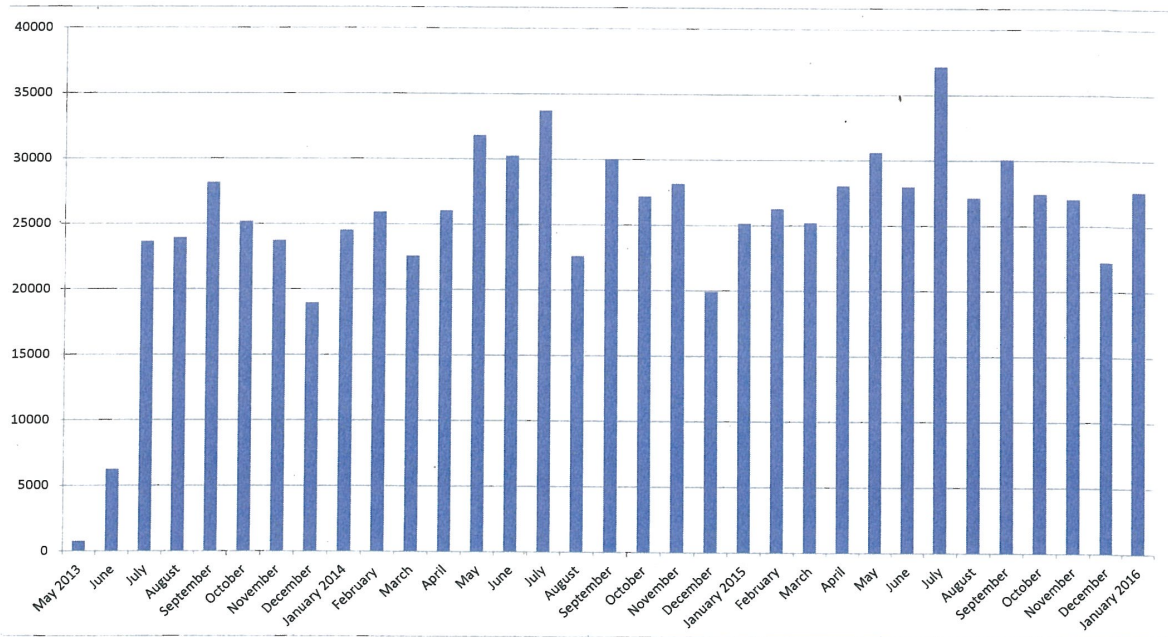
<u>Revenues</u>	<u>January 2016</u>	<u>Biennium-to-Date</u>	<u>Biennium Budget</u>
Lease Income (USPS & Kenmore Village)	0	25,000	67,000
Investment Interest	0	12,216	23,000
Sale of Property	0	901,302	903,000
Event Sponsorship	0	0	1,500
Grant for Public Square	0	0	270,000
Transfer From General Fund	0	0	60,000
Leasehold Excise Returned	0	1,246	2,400
Total Revenues	0	939,764	1,326,900
<u>Expenditures</u>			
6700 Building Improvements	0	72,028	0
Downtown Plan Services	0	52,001	0
Property Management	0	0	19,000
Utilities and Insurance - Kenmore Village	1,056	3,405	0
Repairs, Maintenance, Other Services	0	11,198	133,240
Surface Water and Fire Benefit Fees	0	4,896	0
Transfer to Park Capital Fund	0	134,929	134,929
Kenmore Village Public Square	-18,318	708,179	3,365,000
Total Expenditures	-17,262	986,635	3,652,169
Net Income (Loss)	17,262	-46,872	-2,325,269

NOTE: This schedule only reflects activity occurring on the City books and does not include the lease revenue and expenditures accounted for by the property management firm.

**Kenmore Transportation Benefit District
Monthly Report
December 31, 2015**



Revenues	January 2016	Biennium-to- Date	Biennium Budget
Vehicle Fees	27,621	362,145	630,200
Investment Interest	0	112	
Total Revenues	<u>\$27,621</u>	<u>\$362,257</u>	<u>\$630,200</u>
Expenditures			
WCIA Insurance	2,500	5,000	5,000
Reimbursement to Street Fund	0	232,000	475,000
Overlay	0	75,000	150,000
Total Expenditures	<u>2,500</u>	<u>312,000</u>	<u>630,000</u>
Net Income (Loss)	\$25,121	\$50,257	\$200





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

Subject/Topic: Transportation Impact Fee and Concurrency Update Discussion Proposed Council Action/Motion: Direction to schedule a public hearing and prepare an ordinance for proposed amendments.	For Council Meeting Agenda of: April 18, 2016 Department: Public Works, Community Development, and Development Services Prepared by: Kris Overleese, Debbie Bent Approved by Department Head: Approved by City Attorney: Approved by Finance Director: Approved by City Manager: Exhibits/Attachments: Attachment A: Impact fee program update memo dated 3/21/16 from Fehr & Peers Attachment B: Concurrency calculation memo dated 3/21/16 from Fehr & Peers Attachment C: September 15, 2015 Council Agenda Item Attachment D: Proposed code amendments
Expenditure Required: \$0 Amount Budgeted: \$190,000 Appropriation Required \$0	
INFORMATION/BACKGROUND: The goal of the 4/18/16 meeting is to update Council on Impact Fee and Concurrency work since 9/4/15, and present proposed associated Kenmore Municipal Code amendments. Staff and Kendra Breiland (Fehr & Peers) will be available to answer questions. In addition, staff is requesting Council direction on moving forward with scheduling a 5/9/16 public hearing on proposed code amendments and preparing an ordinance for consideration at that same meeting. At the 9/14/15 Council meeting, staff and Kendra Breiland with Fehr & Peers presented the transportation Impact Fees rate study update and discussed concurrency evaluation (See Attachment C for the Council report). At the 9/14/15 Council meeting, Council asked the team to review the restaurant impact fee rate. The restaurant Impact Fee has been re-evaluated and the recommended updated rate is \$22.64/square foot. The current rate is \$47.23/ square foot (see the rate table in Attachment A). Since the 9/14/15 Council meeting the team has been preparing proposed code amendments (see Attachment D) and developing the concurrency calculation tools. Attachment B provides an overview of how the proposed concurrency calculation will be assessed, moving towards a City-wide assessment based on person trips or “mobility units”. Attachment D includes the draft City code amendments necessary to implement the Concurrency and Impact Fee updates, consistent with the Transportation Element of the Comprehensive Plan adopted in 2014. The draft code amendments have been submitted to the Department of Commerce for review. A SEPA determination for the draft code amendments has also been issued. The main themes of the code changes are: • Align with new multimodal Level of Service (LOS) standards • Reflect new Impact Fee Program • Adopt new concurrency system	

The following sections of the municipal code have to be amended to facilitate the new Impact Fee and Concurrency approach, key changes are highlighted below.

- 18.80 Integrated Transportation Program (consolidates and amends KMC 12.75 and KMC 12.80)
- 18.20 Level of service and Mobility Unit Definitions
- 18.45 Development Standards – Adequacy of Public Facilities and Services
- 19.30 Appeals
- 20.47 Transportation and Parks Impact Fees

Existing Code: The existing code KMC 12.75 and KMC 12.80 outlines the procedures for applying transportation impact fees and evaluating intersection standards for new development which together are considered the Integrated Transportation Program. KMC 20.47 is the chapter for calculation of impact fees. KMC 18.45 outlines requirements for adequate vehicle access and streets.

- Level of service (LOS) standards: LOS standards are calculated based on functional classifications of the roadway (LOS E primary arterials, LOS D minor arterials, LOS C collectors). If the proposed development results in the intersection standards being exceeded then approval to construct the development is not granted until the developer builds or pays fair costs to build the improvements. SR522 is a highway of statewide significance and is exempt from city LOS standards.
- Traffic impact fees: Impact fees are applied to new development. Fees are calculated based on PM peak vehicular trips expected to be generated by a new development. Fees are paid at the time a development permit is issued or at the time of building permit application for residential buildings. Impact fees are assessed based on a 2008 rate study. Impact fee rates may be adjusted by the Council every twelve months based on the Consumer Price Index W. Impact fee exemption for up to 50 low income housing single-family dwelling unit in any one project. Impact fees must be expended within six years of when the fees were paid.
- Appeals: Appeals of the department's decision relative to intersection standards or impact fees is to the department director.

New Code: The new code (KMC 12.80) outlines the four components of the integrated transportation program: Level of Service standards, concurrency, impact fees and safe site access. KMC 20.47 is the amended chapter for calculation of impact fees. KMC 19.30 is amended to reflect appeals to the hearing examiner and KMC 18.45 is amended to be consistent with KMC 12.80.

- Level of Service (LOS) Standards are multimodal: LOS definition is revised in KMC 18.20. LOS standards are for a multimodal system, including roadways, pedestrian, bicycle and transit. Roadway LOS is based on the functional classification of the roadway with Boulevards (primary arterials) LOS E or better, Urban Avenues and Neighborhood Connections (minor arterials) LOS C or better, Local Streets (Collectors) LOS C or better with SR22 and 68th Ave/Juanita Drive measured at the corridor level.

The City has designated a yellow LOS for pedestrian and bicycle facilities based on the priority networks identified in the transportation element of the comprehensive plan, as the minimum standard to achieve. While the City does not control transit service, it has designated a yellow LOS for transit stop amenities and pedestrian access to transit as the minimum standard to achieve. These LOS standards were considered in the development of the Transportation Element's 20 year project list.

- Concurrency: Calculated using a City maintained mobility unit spreadsheet which compares the amount of transportation capital facilities programmed in the next six years (mobility unit capacity) against the amount of mobility units generated by the development (mobility unit demand). If there is more capacity than demand then the transportation system is concurrent. This new approach to concurrency is more multimodal than the previous method and also moves away from using intersection delay at the sole metric by which concurrency is evaluated.
- Impact Fees: PM peak trips are translated into mobility units and used to calculate impact fees. A new mobility unit definition is included in 18.20. Impact fees are assessed based on a new 2015 rate study. Rates may be adjusted by Council annually with the capital facilities plan update or the city manager may adjust the fees annually coinciding with the Council's annual fee resolution with a five year rolling average of the

Washington State Department of Transportation Construction Cost Index Impact fees. Impact fee payment for single-family detached or attached residence may be deferred until certificate of occupancy (this is consistent with State Law). Allow an impact fee exemption of 80% of impact fees for low income housing for any one project (this is consistent with State Law). Impact fees must be expended within ten years of when the fees were paid (this is consistent with State Law).

- Appeals: The city manager's final decision on impact fees and/or concurrency may be appealed to the hearing examiner within 21 days of the date of issuance of the City's written decision.

FISCAL CONSIDERATION: Impact Fees are one source of revenue for transportation capital projects. For example, in the current Capital Improvement Program, transportation Impact Fees account for approximately \$3.92 Million and 10% of transportation projects.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED: Council Goal #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.

Attachment A – March 21, 2016 Fehr & Peers Impact Fee Program Update



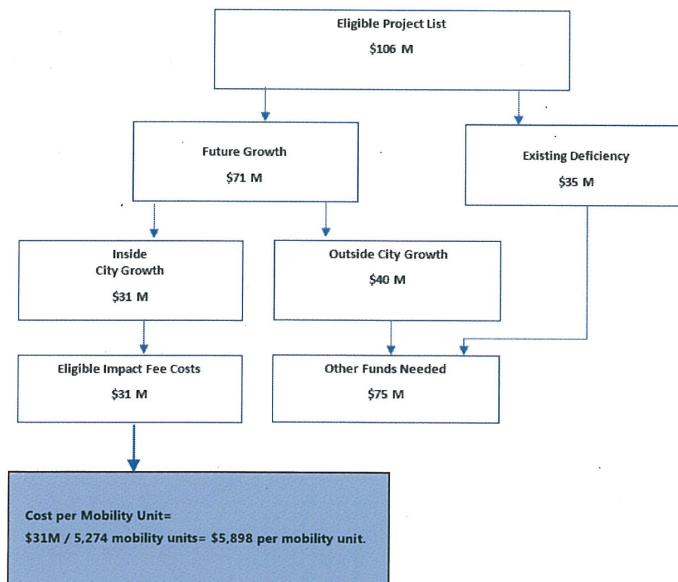
MEMORANDUM

Date: March 21, 2016 (Updated)
 To: Kris Overleese, City of Kenmore
 From: Kendra Breiland and Sarah Keenan, Fehr & Peers
 Subject: **City of Kenmore Impact Fee Program Update**

This memorandum describes how the mechanics of the City's proposed impact fee update, including how the cost per trip was calculated. At the end of this memo, we include the proposed impact fee project list and fee schedule, which were developed using projects and growth assumptions from the 2015 Transportation Element.

IMPACT FEE PROJECT LIST AND COST ALLOCATION

The following figure provides an overview of how Kenmore's cost per trip based impact fee is derived. The rest of this section provides additional detail.



1001 4th Avenue | Suite 4120 | Seattle, WA 98154 | (206) 576-4220 | Fax (206) 576-4225
www.fehrandpeers.com

Kris Overleese
March 21, 2016
Page 2 of 4



The impact fee projects, as shown on page 5, include the eligible projects from the short and longer-term transportation plan list. The eligibility was identified based on an assessment of the project's addition of person capacity to the city's transportation system. The total project cost = \$106 million.

The State's Growth Management Act (GMA) does not allow impact fees to pay the cost of addressing existing shortcomings in the transportation system, which referred to as existing deficiencies. Thus, the next step was to remove any existing deficiencies, as described below:

- **Vehicle-based projects-** analysis of existing vehicle level of service (LOS) compared to city's LOS standard. Applying the City's corridor-based LOS standard, which measures average vehicle delay across a series of intersections, and recognizing that SR 522 is except by state law from local LOS standards, there are no existing deficiencies.
- **Non-motorized projects-** calculated the proportion of 2015-2035 growth compared to the total trips generated within the city in 2035. The calculation showed that growth will represent 34% of the total 2035 trips. Therefore, it was assumed that 66% of the need for these projects is due to existing trips, representing an existing deficiency.

Based on these calculations, the total existing deficiencies = \$35 Million

The remaining \$71 Million can be considered growth-related costs. However, not all of the growth is attributable to Kenmore. Calculations were made to remove the proportion of trip growth that is associated with non-city growth (e.g., trips passing through Kenmore). For vehicle-based projects, we used the city's travel model to determine these percentages. For the non-motorized projects, we assumed that 90 percent of usage would be local Kenmore trips. The exception was Juanita Drive, where we assigned a 75 percent Kenmore local non-motorized usage based on our professional judgment.

Once the non-city growth portion was removed, the resulting impact-fee cost for Kenmore was \$31 Million.

The final step was to calculate an impact fee cost per mobility unit, as follows:

Cost per New Mobility Unit= $\$31,107,260 / 5,274^1$ mobility units= \$5,898 per mobility unit.

The 5,274 new mobility units are based anticipated growth in population and employment between now and 2035, as envisioned in the City's Comprehensive Plan.

¹ The estimated total new mobility units as a result of growth from 2015-2035 were scaled proportionally to a 20-year estimate from 2015-2035.

Kris Overleese
 March 21, 2016
 Page 3 of 4



IMPACT FEE SCHEDULE

The draft impact fee schedule is structured to be similar to the current schedule for comparison purposes. The main differences are the following:

- Use of person trip ends (aka 'mobility units') rather than vehicle trip ends
- Updates to trip rates and % new trips for some uses based on newer ITE data
- Update to certain land use categories to match newer ITE data

Each column of the proposed impact fee schedule is briefly described below.

Columns A and B are the ITE Land Use Code and corresponding ITE Land Use Category. For each land use, there is a daily vehicle trip rate, Column C, and a PM peak hour vehicle trip rate, Column D. Trip rates are found in the 9th Edition of the ITE Trip Generation Manual.

Column E is daily person trip rate for each land use category. The primary data source was the Bellevue/Kirkland/Redmond travel model (BKR model), which incorporates recent household travel survey data from eastside communities and the PSRC. Data for some land use categories were not available from the BKR model. As a result, the person trip rates for these land uses were estimated by scaling based on the ratio of comparable vehicle trip rates found in the ITE report. For example, the daily person trip rate was not available for ITE Land Use Code 230- Condominium, but it was available for ITE Land Use Code 220- Apartment.

$$\text{Daily person trip rate 230} = \frac{\text{Daily person trip rate 220}}{\text{Daily vehicle trip rate 220}} * \text{Daily vehicle trip rate 230}$$

Column F is the PM peak person trip rate. This trip rate was estimated by scaling the daily person trip rate by the ratio of PM peak vehicle trip rate to the daily vehicle trip rate.

$$\text{PM peak person trip rate} = \frac{\text{PM peak vehicle trip rate}}{\text{Daily vehicle trip rate}} * \text{Daily person trip rate}$$

Column G is percent new trips for each land use category. Percent new trips are calculated by subtracting out pass-by trips. The data is found in the 9th Edition of the ITE Trip Generation Manual Volume 1: User's Guide and Manual. For land use categories not included in the study, 100% new trips were used, consistent with the current fee schedule.

Column H is net new PM Peak person trips per unit of measure. This is calculated by multiplying the PM peak person trip rate (F) by the percent new trips (G).

Column I is the Trip Length Factor. This is the ratio of trip length to the average trip length for all land use categories. These ratios were taken from the current rate study.

Kris Overleese
March 21, 2016
Page 4 of 4



Column J calculates the impact fee for each land use per unit of measure. This is calculated by multiplying the net new person trips by the impact fee rate per person trip (i.e. \$5,898 mobility unit) and by the trip length factor.

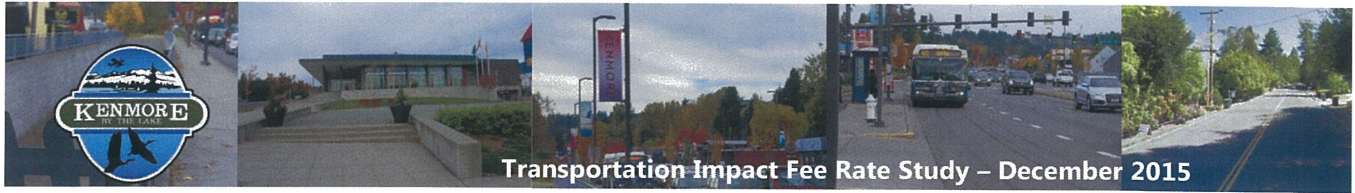
For comparison purposes, Column K shows the current impact fee rate for each land use. Note that for Land Use Code 444- Movie Theater the unit of measure was changed from square foot to seat because of the lack of sufficient data. Also, Category 492 was renamed Health/Fitness Club consistent with ITE, and the corresponding rates were used. The current fee schedule appears to have an error in the trip rate and this category.

OBSERVATIONS

The resulting proposed impact fee rates per unit of development are similar to the current rates, but support a much more multi-modal list of projects. Some rates go up and some go down depending on the changing trip rates and percent new trips, along with the conversion from vehicle to person trips.

Notably, the residential rates are higher because those uses generate a higher rate of person trips vs. vehicle trips relative to the other uses. On a technical basis, this is logical given the heavier emphasis within the project list for non-motorized projects, which would likely be used most heavily by residents.

Lastly, it is worthwhile to note that sit-down restaurant rate was adjusted to reflect the high-level of pass-by that would occur for restaurants sited in Kenmore, as well as the likelihood of generating a very local customer base. Based on these reasonable adjustments, the restaurant impact fee rate would be \$22.64 per square foot, which is comparable to neighboring communities.



Transportation Impact Fee Rate Study – December 2015

TABLE 1. IMPACT FEE PROJECTS

<i>Projects</i>	<i>Benefit to Kenmore</i>	<i>Total Cost</i>
West Sammamish River Bridge	Safely accommodate all users by rebuilding aging bridge; maintain freight mobility/economic prosperity	\$8,000,000*
SR 522 improvements (61 st – 65 th)	Improve capacity for vehicle, transit, bicycle, and pedestrian safety	\$11,300,000
SR 522 improvements (Lake Forest Park – 61 st)	Improve capacity for vehicle, transit, bicycle, and pedestrian safety	\$12,000,000
Sidewalk and crossing program	Improve pedestrian safety and accommodation for all users	\$900,000
Arterial restriping to add bike lanes on 73 rd Ave (south of 192 nd), 80 th Ave, and Simonds Rd	Improve bicycle and pedestrian safety along key city arterials within existing right-of-way	\$360,000
Juanita Drive (NE 143 rd St to NE 155 th Pl)	Improve bicycle/pedestrian safety along Juanita Drive, connecting between Kirkland and 155 th	\$6,500,000
68 th Ave northbound right turn pocket extension	Improve local/regional circulation by improving the efficacy of 68 th /SR522 intersection in moving vehicles	\$2,600,000
Yellow standard pedestrian facilities	Improve pedestrian facility coverage (at least on one side of the street) on non-local streets and near schools	\$18,900,000
Yellow standard bicycle facilities	Improve safety and comfort for people biking around the City. Better connects Burke Gilman Trail with neighborhoods.	\$18,800,000
Grade separated SR 522 crossing	Improve local circulation, while relieving pressure on regional system; provide better options for walking/biking across SR 522	\$17,100,000
Intersection treatments at 67 th Ave/181 st St and 67 th Ave/175 th St	Intersection treatments necessary to accommodate increased volumes related to the grade separated crossing	\$6,000,000
Intersection treatment at 73 rd Ave/192 nd St, 80 th Ave/192 nd St, and 84 th Ave/Simonds Rd	Intersection treatment to improve safety and vehicle operations; would become necessary as traffic volumes grow	\$3,800,000
Total		\$106,260,000

*\$12 million reduced from \$20 million total cost to reflect Federal BRAC Grant

A	B	C	D	E	F	G	H	I	J	K
ITE Code	ITE Land Use Category	Daily Vehicle Trip Rate ¹	PM Peak Vehicle Trip Rate ²	Daily Person Trip Rate	PM Peak Person Trip Rate	% New Trips ³	Net New Person Trips per Unit of Measure	Trip Length Factor ⁴	Impact Fee Per Unit @ \$5,898.85 per Person Trip	Current Impact Fee @ \$7,286.88 per Vehicle Trip
110	Light Industrial	6.97	0.97	7.59	1.06	100%	1.06	1,000 sq ft	\$9.90 per square foot	\$11.35 per square foot
140	Manufacturing	3.82	0.73	4.16	0.79	100%	0.79	1,000 sq ft	\$7.45 per square foot	\$8.57 per square foot
151	Mini-warehouse	2.50	0.26	2.72	0.28	100%	0.28	1,000 sq ft	\$2.65 per square foot	\$3.01 per square foot
210	Single family house	9.52	1.00	13.80	1.45	100%	1.45	dwelling	\$9,320.43 per dwelling unit	\$8,022.13 per dwelling unit
220	Apartment	6.65	0.62	10.92	1.02	100%	1.02	dwelling	\$6,906.50 per dwelling unit	\$5,195.55 per dwelling unit
230	Condominium	5.81	0.52	9.54	0.85	100%	0.85	dwelling	\$5,792.55 per dwelling unit	\$4,357.56 per dwelling unit
240	Mobile home	4.99	0.59	8.19	0.97	100%	0.97	dwelling	\$6,229.41 per dwelling unit	\$4,686.20 per dwelling unit
310	Hotel	8.17	0.60	11.84	0.87	100%	0.87	room	\$6,413.14 per room	\$5,374.08 per room
320	Motel	5.63	0.47	8.16	0.68	100%	0.68	room	\$5,023.63 per room	\$4,281.01 per room
420	Marina	2.96	0.19	3.60	0.23	100%	0.23	berth	\$1,323.44 per boat berth	\$1,342.97 per boat berth
430	Golf Course	5.04	0.30	6.14	0.37	100%	0.37	acre	\$2,154.28 per acre	\$2,186.07 per acre
444	Movie Theater	2.00	0.07	2.50	0.09	100%	0.09	seat	\$371.63 per seat	\$27.39 per square foot
492	Health/Fitness Club	32.93	3.53	40.09	4.30	100%	4.30	1,000 sq ft	\$24.59 per square foot	\$4.52 per square foot
530	High School	12.89	0.97	15.69	1.18	100%	1.18	1,000 sq ft	\$4.32 per square foot	\$4.38 per square foot
560	Church	9.11	0.55	11.09	0.67	100%	0.67	1,000 sq ft	\$4.54 per square foot	\$5.53 per square foot
610	Hospital	13.22	0.93	16.10	1.13	100%	1.13	1,000 sq ft	\$10.42 per square foot	\$13.41 per square foot
620	Nursing Home	2.74	0.22	3.34	0.27	100%	0.27	bed	\$1,375.00 per bed	\$1,394.71 per bed
710	General Office	11.03	1.49	12.98	1.75	100%	1.75	1,000 sq ft	\$16.45 per square foot	\$17.26 per square foot
720	Medical Office	36.13	3.57	42.52	4.20	100%	4.20	1,000 sq ft	\$37.17 per square foot	\$40.66 per square foot
820	Shopping Center	42.70	3.71	51.99	4.52	66%	2.98	1,000 sq ft	\$7.03 per square foot	\$8.85 per square foot
850	Supermarket	102.24	9.48	124.48	11.54	64%	7.39	1,000 sq ft	\$28.32 per square foot	\$27.22 per square foot
851	Convenience market-24 hr	737.99	52.41	898.58	63.81	49%	31.27	1,000 sq ft	\$73.78 per square foot	\$59.58 per square foot
912	Drive-In Bank	148.15	24.30	180.39	29.59	65%	19.23	1,000 sq ft	\$53.32 per square foot	\$79.89 per square foot
932	Restaurant: sit-down	127.15	9.85	154.82	11.99	40%	4.80	1,000 sq ft	\$22.64 per square foot	\$47.23 per square foot
933	Fast food,no drive-up ⁵	397.35	26.15	483.82	31.84	50%	15.92	1,000 sq ft	\$58.22 per square foot	\$61.43 per square foot
934	Fast food, w/drive-up	496.12	32.65	604.08	39.75	50%	19.88	1,000 sq ft	\$72.70 per square foot	\$79.81 per square foot
944	Gas station	168.56	13.87	205.24	16.89	58%	9.80	pump	\$30,623.52 per pump	\$32,116.80 per pump
945	Gas Station w/convenience	162.78	13.51	198.20	16.45	44%	7.24	pump	\$22,628.40 per pump	\$24,286.88 per pump

Attachment B – March 21, 2016 Fehr & Peers Concurrency Calculation



MEMORANDUM

Date: March 21, 2016 (Updated)
To: Kris Overleese, City of Kenmore
From: Kendra Breiland and Sarah Keenan, Fehr & Peers
Subject: **City of Kenmore Concurrency Calculation**

Along with updating the impact fee program, the City of Kenmore is looking to update the way it assesses concurrency. Currently, concurrency is based on auto level of service at intersections. This program has been identified to be potentially problematic, as it places too much emphasis on vehicle delay at isolated locations within the City. The proposed concurrency program update will move to a City-wide capacity assessment based on person trips, or "mobility units". The proposed system requires that construction of transportation facilities (mobility unit supply) keep pace with land use development, which generates person trips (e.g., mobility unit demand).

MOBILITY UNIT SUPPLY CALCULATION

Under the proposed update, the City will keep track of its available mobility unit capacity. Development can only be approved if there is sufficient mobility unit capacity available based on:

1. The "running start", excess available capacity in Kenmore's transportation system today
2. Transportation capacity projects funded in the City's Six-Year Capital Improvement Program (CIP)
3. Any other constructed project that adds mobility unit capacity to the City that could be funded within six years

The "running start" capacity is the mobility unit capacity that is currently available. Many of Kenmore's roadways and sidewalks are not at capacity today; thus, there is some excess capacity. This excess capacity was calculated based on existing traffic counts and capacity standards for each type of roadway. Using city volume thresholds and level of service (LOS) standards for each of the

Kris Overleese
March 21, 2016
Page 2 of 3



City's major arterials, we estimated that there is a "running start" capacity of 543 PM peak hour mobility units.

The State's concurrency guidance allows communities to take credit for capacity that is funded for construction within six years. The CIP includes a number of projects to be constructed over the next six years, including the West Sammamish River Bridge, SR 522 improvements between 61st and 65th, as well as a number of sidewalk and bikeway enhancements. The mobility units were calculated for these projects based on a uniform cost per mobility unit citywide. The CIP capacity projects were determined to provide 1,117 PM peak hour mobility units.

The proposed concurrency program also provides flexibility to recognize the mobility unit capacity of other funded projects (for example, a new roadway or sidewalk that is added as part of a proposed development and adds to citywide mobility). For these proposed projects, the capacity would be calculated the same way as the CIP capacity, using the same cost per mobility unit.

Based on the above considerations, Kenmore's existing mobility unit supply is the "running start" capacity plus the CIP capacity, and the total is 1,660 PM peak hour mobility units.

MOBILITY UNIT DEMAND CALCULATION

To understand how development relates to mobility unit demand, the consultant team calculated the person trip generation of individual land uses. Using this information, the demand of mobility units for each development can be estimated.

TRACKING SUPPLY AND DEMAND

Fehr & Peers created a tool for easy tracking of supply and demand of mobility units in Kenmore. The tool works behind the scenes in Excel as a ledger system to evaluate how mobility unit supply (based on the running start analysis, programmed CIP capacity, and other proposed projects) compare to mobility unit demand based on entered development. The tool can be used to see if a development can be built based on available supply. So long as there are positive mobility units remaining, development is considered concurrent.

A screenshot of the tool is provided on the next page. In this example, we test how the mobility unit capacity supplied by the City's running start and programmed CIP provide more than sufficient capacity for a sample project, in this case a 100-unit apartment development.

Kris Overleese
March 21, 2016
Page 3 of 3



Select all projects that are constructed or funded in the 6 year CIP

☒ West Sammamish River Bridge	☐ Intersection treatments at 67th Ave/181st St
☒ SR 522 improvements (61st – 65th)	☐ Intersection treatments at 67th Ave/175th St
☐ SR 522 improvements (Lake Forest Park – 61st)	☐ 73rd Ave/ 192nd St intersection treatment
☐ 73rd Ave bike lanes	☐ 80th Ave/192nd St intersection treatment
☐ 80th Ave bike lanes	☐ 84th Ave/Simonds Rd intersection treatment
☐ Simonds Road bike lanes	Yellow Standard pedestrian facilities linear feet built
☐ Juanita Drive bike and ped improvements (NE 143rd St to NE 155th Pl)	5,500 (38,831 max)
☐ 68th Ave northbound right turn pocket extension	Yellow Standard bicycle facilities linear feet built
☐ Grade separated SR 522 crossing	8,400 (62,162 max)
☐ Lakepointe Drive west (SR522 to 68th Ave)	Cost of other concurrency projects constructed
	\$0

"running start" mobility units = 543

mobility unit capacity from projects = 1,117

mobility units consumed by developments = 102

mobility units remaining = 1558

Description

ITE Category dwelling

Developments Description	ITE Category	Size	Unit	Mobility Units
New Apartment Complex	220 Apartment	100	dwelling	102

Attachment C – September 14, 2015 Council Report



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

Subject/Topic: Transportation Impact Fee Update Discussion Proposed Council Action/Motion: Direction to move forward with updating transportation Impact Fees	For Council Meeting Agenda of: September 14, 2015 Department: Public Works and Community Development Prepared by: Kris Overleese, Public Works Director & Debbie Bent, Community Development Director Approved by Department Head: <i>[Signature]</i> Approved by City Attorney: NA Approved by Finance Director: <i>[Signature]</i> Approved by City Manager: <i>[Signature]</i> Initial & Date <i>[Signature] 9/12/15</i> <i>[Signature] 9/12/15</i> Exhibits/Attachments: 1. Memo prepared by Fehr & Peers
Expenditure Required: \$0 Amount Budgeted: \$190,000 Appropriation Required \$0	
<u>INFORMATION/BACKGROUND:</u> Impact Fee Update: At the September 14, 2015 Council meeting, staff and Kendra Breiland with Fehr & Peers will be present to discuss transportation Impact Fees, the staff recommendation to update them, and to obtain Council feedback and direction. Attachment 1 provides findings on 1) the Impact Fee cost allocation for transportation projects (in the 2014 update of the Transportation Element), 2) how the Impact Fees are translated into “mobility units” and 3) how this all translates to a potential new transportation Impact Fee schedule. Staff will give a presentation that provides background on Impact Fees, describes the process and calculations, describes the preliminary Impact Fee schedule and outlines next steps. The remainder of this report defines the Impact Fee and describes how it’s calculation is based on capital projects within the Transportation Element of the Comprehensive Plan. What is an Impact Fee?: Local governments charge Impact Fees for several reasons: 1) to obtain revenue to pay for some of the cost of new public facilities; 2) to implement a public policy that new development should pay a portion of the cost of facilities that it requires, and that existing development should not pay all of the cost of such facilities; and 3) to assure that adequate public facilities will be constructed to serve new development. Impact Fees are paid by new development as one source of revenue to reimburse the City for the development’s equitable share of capital improvement transportation project costs. Impact Fee rates for new development are based on (and vary) according to the type of land use. Impact Fee revenue can be used for the capital cost of public facilities. Impact Fees cannot be used for operating or maintenance expenses. The City of Kenmore’s Transportation Impact Fee procedures are in KMC Chapter 12.75 and Level of Service Standards are in Chapter 12.80. The transportation Impact Fee rates are currently identified in the City’s fee schedule but are also identified on Table 2 of Attachment 1. Attachment 1 outlines the Impact Fee calculations and proposed Impact Fee schedule. Staff recommends moving forward with updating transportation Impact Fees and related code amendments for the following reasons: • To be consistent with and implement the Transportation Element and Capital Facilities Plan Element of the Comprehensive Plan adopted December 2014. • To allow Impact Fees to support a broader range of “multi-modal” transportation projects identified in the Transportation element and capital facilities plan including pedestrian and bicycle facility improvements. • The proposed Impact Fee rates are similar to the current rates although some rates would go up and some down. Council direction on the rates is part of the discussion 9/14/15.	

Update of the Transportation Element of the Comprehensive Plan: Council adopted a new Transportation Element in December 2014, a chapter in the Comprehensive Plan (<http://www.kenmorewa.gov/comprehensiveplan>). The Transportation Element sets a framework for understanding, prioritizing, measuring, and creating a transportation network to help Kenmore achieve its vision. A new layered network concept accommodates all modes of travel and creates a complete transportation network. The Transportation Element also details how to accommodate each travel mode, establishes the City's level of service standards and provides near-term and long-term transportation projects based on the community values expressed in the transportation goals and layered network. The Impact Fee calculation is based on the transportation projects in the transportation element and capital facilities plan that provide capacity.

Next steps: Next steps include a second Council meeting this fall where staff will bring forward draft code amendments associated with 1) implementing the updated Transportation Element (e.g. new level of service standards recommended in the Transportation Element) and 2) amendments needed to support implementing new transportation Impact Fees. Based on Council direction at the first and second meetings, Staff would then work through the amendment process including scheduling a public hearing and bringing forward an ordinance for Council adoption.

FISCAL CONSIDERATION:

Impact Fees are one source of revenue for transportation capital projects. For example, in the current Capital Improvement Program, transportation Impact Fees account for approximately \$3.92 Million and 10% of transportation projects.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

To provide revenues to implement the long-term Capital Facilities Plan in the Comprehensive Plan and six-year Capital Improvement Program for transportation projects. To support the Comprehensive Plan Vision "provides a safe, reliable and effective system of streets, sidewalks, bikeways, trails and transit routes, linking significant local and regional destinations".



MEMORANDUM

Date: March 6, 2015
To: Kris Overleese, City of Kenmore
From: Don Samdahl and Sarah Keenan, Fehr & Peers
Subject: **City of Kenmore Impact Fee Program Update**

This memorandum describes the preliminary findings of the transportation impact fee update. Attached are two tables:

1. Impact Fee Project List and Cost Allocation
2. Impact Fee Schedule

Each table is described below.

IMPACT FEE PROJECT LIST AND COST ALLOCATION

The impact fee projects include the eligible projects from the short and longer-term transportation plan list. The eligibility was identified based on an assessment of the project's addition of person capacity to the city's transportation system. The total project cost = \$126.7 million.

The next step was to remove any existing deficiencies, as follows:

- **Vehicle-based projects-** analysis of existing vehicle level of service (LOS) compared to city's LOS standard. There were no existing deficiencies.
- **Non-motorized projects-** calculated the proportion of 2015-2035 growth compared to the total trips generated within the city in 2035. The calculation showed that growth will

Kris Overleese
 March 6, 2015
 Page 2 of 4



represent 34% of the total 2035 trips. Therefore, it was assumed that 66% of the need for these projects is due to existing trips, representing an existing deficiency.

Based on these calculations, the total existing deficiencies = \$35.3 Million

The remaining \$78.5 Million can be considered growth-related costs. However, not all of the growth is attributable to Kenmore. Calculations were made to remove the proportion of trip growth that is associated with non-city growth (e.g., trips passing through Kenmore). For vehicle-based projects, we used the city's travel model to determine these percentages. For the non-motorized projects, we assumed that 90 percent of usage would be local Kenmore trips. The exception was Juanita Drive, where we assigned a 75 percent Kenmore usage based on our professional judgment.

Once the non-city growth portion was removed, the resulting impact-fee cost for Kenmore was \$34.3 Million.

The final step was to calculate an impact fee cost per mobility unit, as follows:

Cost per Mobility Unit= $\$34,332,260 / 5,273^1$ mobility units= \$6,510.95 per mobility unit

IMPACT FEE SCHEDULE

The draft impact fee schedule is structured to be similar to the current schedule for comparison purposes. The main differences are the following:

- Use of person trip ends (aka 'mobility units') rather than vehicle trip ends
- Updates to trip rates and % new trips for some uses based on newer ITE data
- Update to certain land use categories to match newer ITE data

Each column of the fee schedule is briefly described below.

¹ The estimated total mobility units from 2010-2035 were scaled proportionally to a 20-year estimate from 2015-2035.

Kris Overleese
 March 6, 2015
 Page 3 of 4



Columns A and B are the ITE Land Use Code and corresponding ITE Land Use Category. For each land use, there is a daily vehicle trip rate, Column C, and a PM peak hour vehicle trip rate, Column D. Trip rates are found in the 9th Edition of the ITE Trip Generation Manual.

Column E is daily person trip rate for each land use category. The primary data source was the Bellevue/Kirkland/Redmond travel model (BKR model), which incorporates recent household travel survey data from eastside communities and the PSRC. Data for some land use categories were not available from the BKR model. As a result, the person trip rates for these land uses were estimated by scaling based on the ratio of comparable vehicle trip rates found in the ITE report. For example, the daily person trip rate was not available for ITE Land Use Code 230- Condominium, but it was available for ITE Land Use Code 220- Apartment.

$$\text{Daily person trip rate 230} = \frac{\text{Daily person trip rate 220}}{\text{Daily vehicle trip rate 220}} * \text{Daily vehicle trip rate 230}$$

Column F is the PM peak person trip rate. This trip rate was estimated by scaling the daily person trip rate by the ratio of PM peak vehicle trip rate to the daily vehicle trip rate.

$$\text{PM peak person trip rate} = \frac{\text{PM peak vehicle trip rate}}{\text{Daily vehicle trip rate}} * \text{Daily person trip rate}$$

Column G is percent new trips for each land use category. Percent new trips are calculated by subtracting out pass-by trips. The data is found in the 9th Edition of the ITE Trip Generation Manual Volume 1: User's Guide and Manual. For land use categories not included in the study, 100% new trips were used, consistent with the current fee schedule.

Column H is net new PM Peak person trips per unit of measure. This is calculated by multiplying the PM peak person trip rate by the percent new trips.

Column I is the Trip Length Factor. This is the ratio of trip length to the average trip length for all land use categories. These ratios were taken from the current rate study.

Column J calculates the impact fee for each land use per unit of measure. This is calculated by multiplying the net new person trips by the impact fee rate per person trip (i.e. mobility unit) and by the trip length factor.

For comparison purposes, Column K shows the current impact fee rate for each land use. Note that for Land Use Code 444- Movie Theater the unit of measure was changed from square foot to

Kris Overleese
March 6, 2015
Page 4 of 4



seat because of the lack of sufficient data. Also, Category 492 was renamed Health/Fitness Club consistent with ITE, and the corresponding rates were used. The current fee schedule appears to have an error in the trip rate and this category.

OBSERVATIONS

The resulting impact fee rates per unit of development are similar to the current rates, but support a much more multi-modal list of projects. Some rates go up and some go down depending on the changing trip rates and percent new trips, along with the conversion from vehicle to person trips.

Notably, the residential rates are higher because those uses generate a higher rate of person trips vs. vehicle trips relative to the other uses. On a technical basis, this is logical given the heavier emphasis within the project list for non-motorized projects, which would likely be used most heavily by residents.

Table 1 Impact Fee Project List and Cost Allocation								
Projects	Benefit to Kenmore	Primary Benefit	Total Cost	Deficiency	\$ Deficiency	\$ Growth	% Kenmore	Impact Fee Cost
West Sammamish River Bridge*	Safely accommodate all users by rebuilding aging bridge; maintain freight mobility/economic prosperity	Regional, local	\$8,000,000	66%	\$5,280,000	\$2,720,000	90%	\$2,448,000
SR 522 improvements (61 st – 65 th)	Improve capacity for vehicle, transit, bicycle, and pedestrian safety	Regional	\$11,300,000	0%	\$0	\$11,300,000	15%	\$1,695,000
SR 522 improvements (Lake Forest Park – 61 th)	Improve capacity for vehicle, transit, bicycle, and pedestrian safety	Regional	\$12,000,000	0%	\$0	\$12,000,000	15%	\$1,800,000
Sidewalk and crossing program	Improve pedestrian safety and accommodation for all users	Local	\$900,000	66%	\$594,000	\$306,000	90%	\$275,400
Arterial restriping to add bike lanes on 73 rd Ave (south of 192 nd), 80 th Ave, and Simonds Rd	Improve bicycle and pedestrian safety along key city arterials within existing right-of-way	Local	\$360,000	66%	\$237,600	\$122,400	90%	\$110,160
Juanita Drive (NE 143 rd St to NE 155 th Pl)	Improve bicycle/pedestrian safety along Juanita Drive, connecting between Kirkland and 155 th	Regional, local	\$6,500,000	66%	\$4,290,000	\$2,210,000	75%	\$1,657,500
68 th Ave northbound right turn pocket extension	Improve local/regional circulation by improving the efficacy of 68 th /SR522 intersection in moving vehicles	Regional, local	\$2,600,000	0%	\$0	\$2,600,000	27%	\$702,000
Longer Term (7-20 year) Projects								
Yellow standard pedestrian facilities (see Figure 20)	Improve pedestrian facility coverage (at least on one side of the street) on non-local streets and near schools	Local	\$18,900,000	66%	\$12,474,000	\$6,426,000	90%	\$5,783,400
Yellow standard bicycle facilities (see Figure 21)	Improve safety and comfort for people biking around the City. Better connects Burke Gilman Trail with neighborhoods.	Local	\$18,800,000	66%	\$12,408,000	\$6,392,000	90%	\$5,752,800
Grade separated SR 522 crossing	Improve local circulation, while relieving pressure on regional system; provide better options for walking/biking across SR 522	Regional, local	\$17,100,000	0%	\$0	\$17,100,000	43%	\$7,353,000
Intersection treatments at 67 th Ave/181 st St and 67 th Ave/175 th St	Intersection treatments necessary to accommodate increased volumes related to the grade separated crossing	Local	\$6,000,000	0%	\$0	\$6,000,000	43%	\$2,580,000
Intersection treatment at 73 rd Ave/ 192 nd St, 80 th Ave/192 nd St, and 84 th Ave/Simonds Rd	Intersection treatment to improve safety and vehicle operations; would become necessary as traffic volumes grow	Regional, local	\$3,800,000	0%	\$0	\$3,800,000	25%	\$950,000
Lakepointe Drive west (SR 522 to 68 th Ave), including new intersection at 68 th Ave	Improve local circulation, while relieving pressure on the regional system; providing more appealing options for travel in southwest downtown quadrant	Local	\$7,500,000	0%	\$0	\$7,500,000	43%	\$3,225,000
Sum			\$113,760,000		\$35,283,600	\$78,476,400		\$34,332,260
* \$12 million reduced from \$20 million total cost to reflect BRAC Grant								
Growth in mobility units 2010-2035								
Fee per mobility unit								
5273								
\$6,510.40								

A	B	C	D	E	F	G	H	I	J	K
ITE Code	ITE Land Use Category	Daily Vehicle Trip Rate ¹	PM Peak Vehicle Trip Rate ²	Daily Person Trip Rate	PM Peak Person Trip Rate	% New Trips ³	Net New Person Trips per Unit of Measure	Trip Length Factor ⁴	Impact Fee Per Unit @ \$6,510.40 per Person Trip	Current Impact Fee @ \$7,286.88 per Vehicle Trip
110	Light Industrial	6.97	0.97	7.59	1.06	100%	1.06 1,000 sq ft	1.59	\$10.93 per square foot	\$11.35 per square foot
140	Manufacturing	3.82	0.73	4.16	0.79	100%	0.79 1,000 sq ft	1.59	\$8.23 per square foot	\$8.57 per square foot
151	Mini-warehouse	2.50	0.26	2.72	0.28	100%	0.28 1,000 sq ft	1.59	\$2.93 per square foot	\$3.01 per square foot
210	Single family house	9.52	1.00	13.80	1.45	100%	1.45 dwelling	1.09	\$10,286.71 per dwelling unit	\$8,022.13 per dwelling unit
220	Apartment	6.65	0.62	10.92	1.02	100%	1.02 dwelling	1.15	\$7,622.52 per dwelling unit	\$5,195.55 per dwelling unit
230	Condominium	5.81	0.52	9.54	0.85	100%	0.85 dwelling	1.15	\$6,393.08 per dwelling unit	\$4,357.56 per dwelling unit
240	Mobile home	4.99	0.59	8.19	0.97	100%	0.97 dwelling	1.09	\$6,875.23 per dwelling unit	\$4,686.20 per dwelling unit
310	Hotel	8.17	0.61	11.84	0.88	100%	0.88 room	1.25	\$7,195.98 per room	\$5,374.08 per room
320	Motel	5.63	0.47	8.16	0.68	100%	0.68 room	1.25	\$5,544.44 per room	\$4,281.01 per room
420	Marina	2.96	0.19	3.60	0.23	100%	0.23 berth	0.97	\$1,460.65 per boat berth	\$1,342.97 per boat berth
430	Golf Course	5.04	0.30	6.14	0.37	100%	0.37 acre	1.00	\$2,377.62 per acre	\$2,186.07 per acre
444	Movie Theater ⁵	2.00	0.07	2.50	0.09	100%	0.09 seat	0.72	\$410.16 per seat	\$27.39 per square foot
492	Health/Fitness Club	32.93	3.53	40.09	4.30	100%	4.30 1,000 sq ft	0.97	\$27.14 per square foot	\$4.52 per square foot
530	High School	12.89	0.97	15.69	1.18	100%	1.18 1,000 sq ft	0.62	\$4.77 per square foot	\$4.38 per square foot
560	Church	9.11	0.55	11.09	0.67	100%	0.67 1,000 sq ft	1.15	\$5.01 per square foot	\$5.53 per square foot
610	Hospital	13.22	0.93	16.10	1.13	100%	1.13 1,000 sq ft	1.56	\$11.50 per square foot	\$13.41 per square foot
620	Nursing Home	2.74	0.22	3.34	0.27	100%	0.27 bed	0.87	\$1,517.55 per bed	\$1,394.71 per bed
710	General Office	11.03	1.49	12.98	1.75	100%	1.75 1,000 sq ft	1.59	\$18.15 per square foot	\$17.26 per square foot
720	Medical Office	36.13	3.57	42.52	4.20	100%	4.20 1,000 sq ft	1.50	\$41.03 per square foot	\$40.66 per square foot
820	Shopping Center	42.70	3.71	51.99	4.52	66%	2.98 1,000 sq ft	0.40	\$7.76 per square foot	\$8.85 per square foot
850	Supermarket	102.24	9.48	124.48	11.54	64%	7.39 1,000 sq ft	0.65	\$31.26 per square foot	\$27.22 per square foot
851	Convenience market-24 hr	737.99	52.41	898.58	63.81	39%	24.89 1,000 sq ft	0.40	\$64.81 per square foot	\$59.58 per square foot
912	Drive-In Bank	148.15	24.30	180.39	29.59	53%	15.68 1,000 sq ft	0.47	\$47.98 per square foot	\$79.89 per square foot
932	Restaurant: sit-down	127.15	9.85	154.82	11.99	57%	6.84 1,000 sq ft	1.06	\$47.18 per square foot	\$47.23 per square foot
933	Fast food,no drive-up ⁵	397.35	26.15	483.82	31.84	52%	16.56 1,000 sq ft	0.62	\$66.83 per square foot	\$61.43 per square foot
934	Fast food, w/drive-up	496.12	32.65	604.08	39.75	51%	20.27 1,000 sq ft	0.62	\$81.84 per square foot	\$79.81 per square foot
944	Gas station	168.56	13.87	205.24	16.89	58%	9.80 pump	0.53	\$33,798.37 per pump	\$32,116.80 per pump
945	Gas Station w/convenience	162.78	13.51	198.20	16.45	44%	7.24 pump	0.53	\$24,974.37 per pump	\$24,286.88 per pump

¹ ITE Trip Generation (9th Edition): Weekday Trip Ends

² ITE Trip Generation (9th Edition): 4-6 PM Peak Hour Trip Ends

³ Excludes pass-by trips: see "Trip Generation Manual 9th Edition, Volume 1: User's Guide and Manual" (2012)

⁴ Ratio to average trip length.

⁵ No weekday trip rate available, estimated based on similar land use or weekend trip rate

Transportation Impact Fee and Currency Program Update

September 14, 2015



Kendra Breiland, AICP

FEHR & PEERS

Agenda



- **Adopted Transportation Element – Key Themes**
- **Concurrency and Impact Fees – what are they?**
- **High-level findings**
- **Next steps**

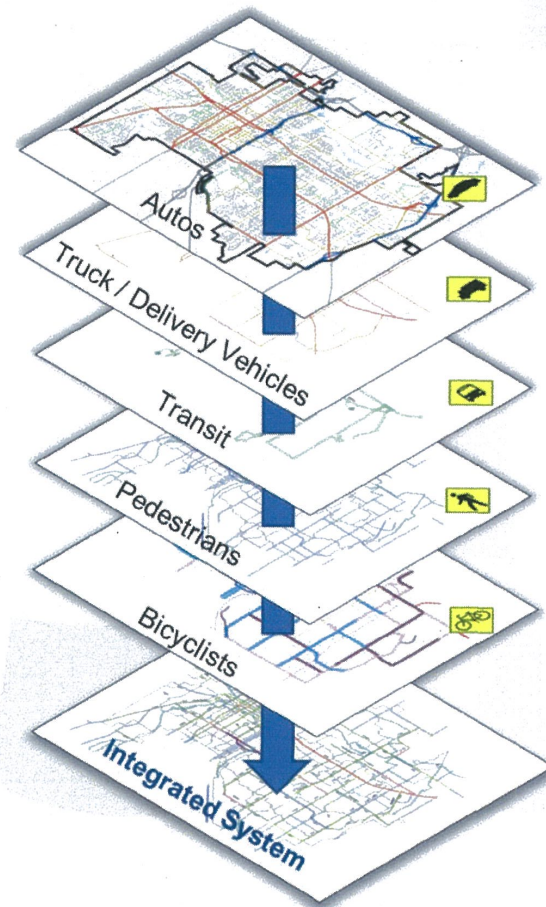


Adopted Transportation Plan Theme



The Layered Network

- Modal priority networks establish where modes need to be best accommodated
- Developing level of service (LOS) policies for following modes:
 - Pedestrian
 - Bike
 - Transit
 - Auto/Freight



Adopted Transportation Plan Theme



Multimodal Approach



Automobile Level of Service

 **A** +No delay at intersections.

C/D +Drivers wait no more than 1 red light

 **F** -Longer delays at intersections.

 **Transit
Quality of Service**
+More frequent service, stops, and amenities.
+Attracts riders who choose transit over other modes.

C/D +Good bus service
+Basic stops and amenities

 **F** -Limited or no service.
-Fewer stops and amenities

 **Bicycle
Quality of Service**
+Complete system for all types of users.
+Good condition, few stops, and conflicts with autos
Cyclists of various skill levels are able to bike comfortably to key destinations

 **F** -More gaps in system
-More stops and auto conflicts
-Poor pavement

 **Pedestrian
Quality of Service**
+Complete system
+Easier to cross
+Improved Comfort

C/D An adequately complete network of decent sidewalks

 **F** -Gaps in system.
-Poor pavement
-Less inviting.

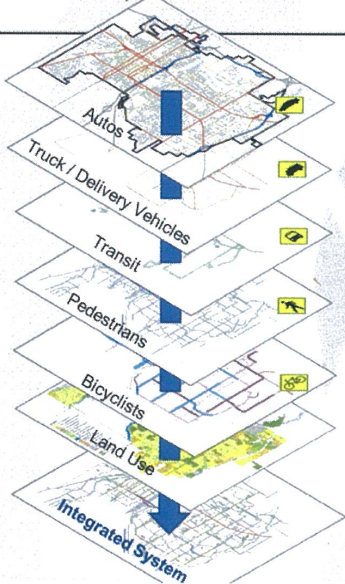
Adopted Transportation Plan Theme



Transportation Plan

LAYERED NETWORK

- Identifies priority users on individual streets
- Based on existing travel patterns and input from City staff and community



LEVEL OF SERVICE

- Auto
- Transit
- Pedestrian
- Bicycle
- Freight

TRANSPORTATION PROJECT LIST

- 20 Year List
- 6 Year (Capital Improvement Program)
- Concurrency
- Impact Fee Program

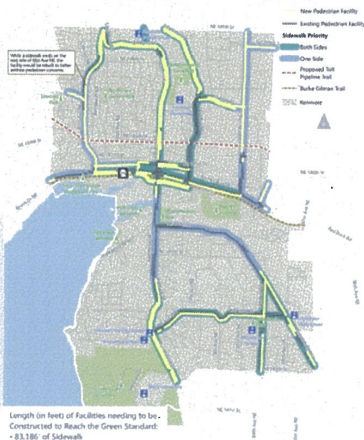
PEDESTRIAN LOS – SIDEWALK REQUIREMENTS

LOS	Within Pedestrian Priority Network
Green	Pedestrian facility* where indicated in Pedestrian Priority Network, with a buffer
Yellow	Pedestrian facility* provided on one side of the street
Red	No pedestrian facility

Crossing Requirements

LOS	In Downtown or Within a Half Mile of a School
Green	Enhanced crossing every 300-600** feet
Yellow	Marked crosswalk present every 600** feet
Red	No marked crosswalk present

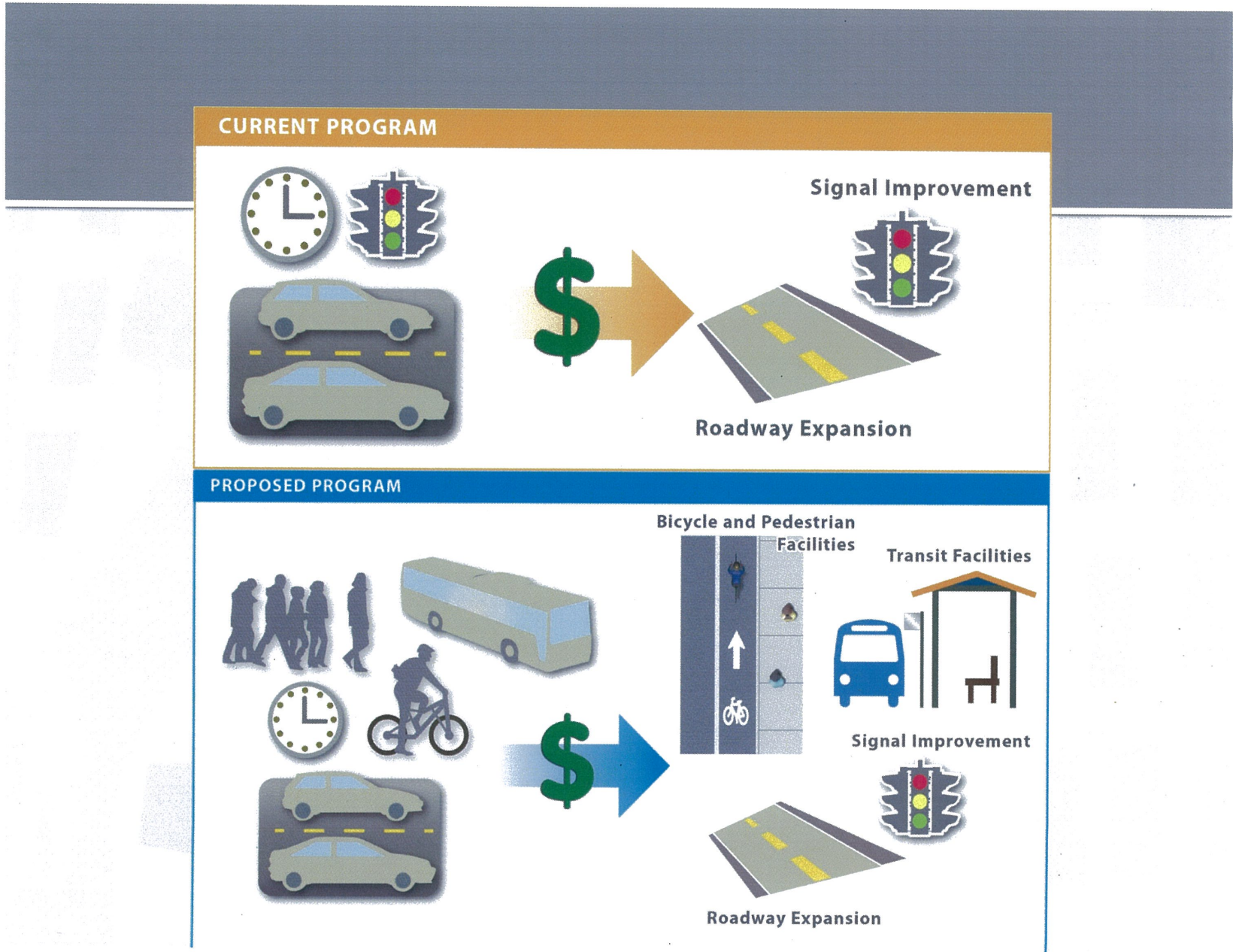
* Pedestrian facility includes sidewalks and shoulders protected by a raised curb
** Distance may exceed 600 feet where no pedestrian demands are present



- Measured at intersections, based on auto delay.
- LOS E for principal arterials.
- LOS C/D standard everywhere else.

Figure T-1 2001 - 2007 Functional Classification of Roadways





What is Concurrency?

- Adequate provision of public facilities and services relative to the demand for them.
- Growth Management Act requires that facilities are provided to maintain stated LOS goals as development occurs.
- Again, auto delay is traditional metric, but more communities going multimodal.



What Are Transportation Impact Fees?



- One time charges paid by new development
- Funds improvements that add capacity to the transportation network; cannot be used for existing deficiencies
- Some communities choose to fund motorized as well as non-motorized projects with transportation impact fees
- Kenmore's current impact fee is \$7,286 per PM peak hour vehicle trip

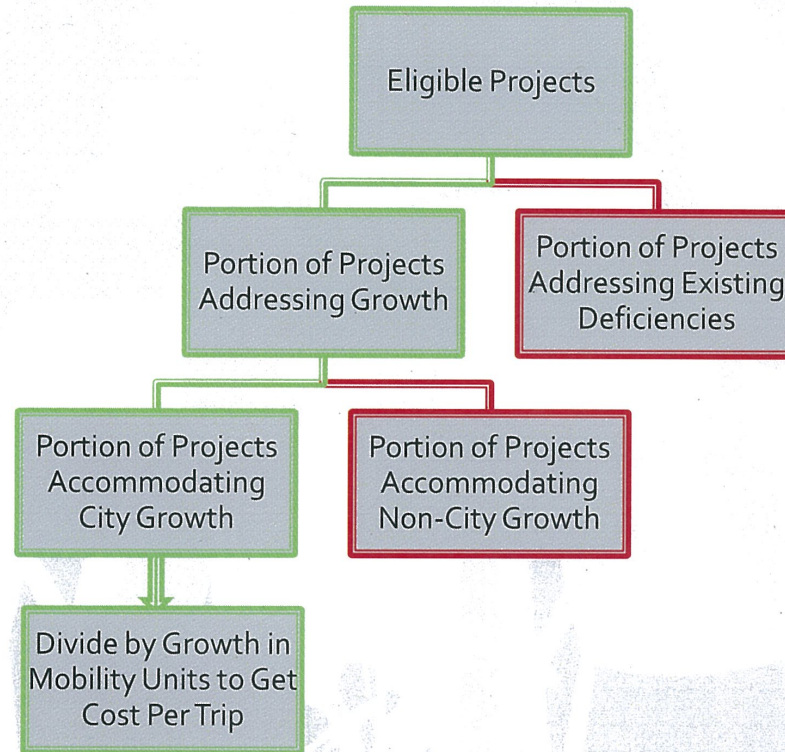


Potential Project List



Projects	Benefit to Kenmore	Total Cost
West Sammamish River Bridge	Safely accommodate all users by rebuilding aging bridge; maintain freight mobility/economic prosperity	\$8,000,000
SR 522 improvements (61 st – 65 th)	Improve capacity for vehicle, transit, bicycle, and pedestrian safety	\$11,300,000
SR 522 improvements (Lake Forest Park – 61 st)	Improve capacity for vehicle, transit, bicycle, and pedestrian safety	\$12,000,000
Sidewalk and crossing program	Improve pedestrian safety and accommodation for all users	\$900,000
Arterial restriping to add bike lanes on 73 rd Ave (south of 192 nd), 80 th Ave, and Simonds Rd	Improve bicycle and pedestrian safety along key city arterials within existing right-of-way	\$360,000
Juanita Drive (NE 143 rd St to NE 155 th Pl)	Improve bicycle/pedestrian safety along Juanita Drive, connecting between Kirkland and 155 th	\$6,500,000
68 th Ave northbound right turn pocket extension	Improve local/regional circulation by improving the efficacy of 68 th /SR522 intersection in moving vehicles	\$2,600,000
Yellow standard pedestrian facilities	Improve pedestrian facility coverage (at least on one side of the street) on non-local streets and near schools	\$18,900,000
Yellow standard bicycle facilities	Improve safety and comfort for people biking around the City. Better connects Burke Gilman Trail with neighborhoods.	\$18,800,000
Grade separated SR 522 crossing	Improve local circulation, while relieving pressure on regional system; provide better options for walking/biking across SR 522	\$17,100,000
Intersection treatments at 67 th Ave/181 st St and 67 th Ave/175 th St	Intersection treatments necessary to accommodate increased volumes related to the grade separated crossing	\$6,000,000
Intersection treatment at 73 rd Ave/ 192 nd St, 80 th Ave/192 nd St, and 84 th Ave/Simonds Rd	Intersection treatment to improve safety and vehicle operations; would become necessary as traffic volumes grow	\$3,800,000
Lakepointe Drive west (SR 522 to 68 th Ave), including new intersection at 68 th Ave	Improve local circulation, while relieving pressure on the regional system; providing more appealing options for travel in southwest downtown quadrant	\$7,500,000
Total Cost		\$113,760,000

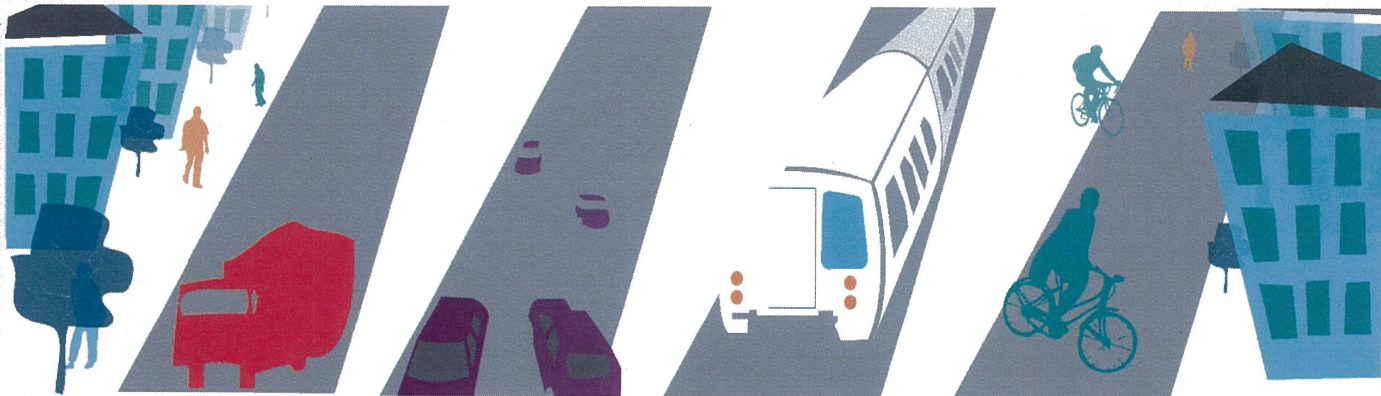
Transportation Impact Fee Methodology



What Are Mobility Units?



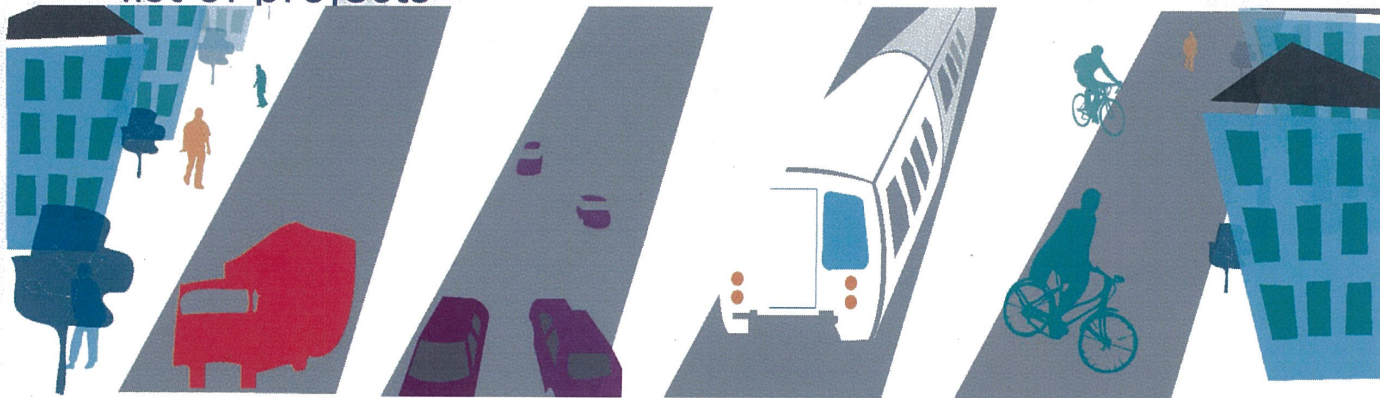
- New development generates new trips
- Trips can be in form of transit, SOV, HOV, bicycle or walking trips
- “Mobility Units” refers to the number of person trips generated



Kenmore's Impact Fee Program



- New fee would be approximately \$6,500 per PM Person Trip
- If approved at upper bound, the new rate per unit of development would be slightly higher than the current rate for most uses
- The new program would fund a much more multimodal list of projects



Example Rates



Land Use	Current Impact Fee	Potential Impact Fee *
Single Family Home	\$8,022 per dwelling unit	\$10,286 per dwelling unit
Apartment	\$5,195 per dwelling unit	\$7,622 per dwelling unit
General Office	\$17.26 per 1,000 sq ft	\$18.15 per 1,000 sq ft
Shopping Center	\$8.85 per 1,000 sq ft	\$7.76 per 1,000 sq ft

* These rates represent an upper bound that could be charged by transportation impact fees. The City could elect to charge a lower amount.

Next Steps



- **Tonight: reintroduced topic and get feedback**
- **Staff will incorporate feedback into proposed Impact Fee program update**
- **Return with proposed code amendments related to:**
 - Level of service (to be consistent with 2014 Transportation Element)
 - Impact fee program

Questions?



Kendra Breiland
k.breiland@fehrandpeers.com

Attachment D

12.80 Integrated Transportation Program – was section 12.75

18.20 Level of Service and Mobility Unit Definitions

18.45 Development Standards – Adequacy of Public Facilities and Service

19.30 Appeals

20.47 Transportation and Parks Impact Fees

12.80 Integrated Transportation Program – was section 12.75

Chapter 12.80
INTEGRATED TRANSPORTATION PROGRAM

Sections:

12.80.010 Definitions

12.80.020 Components of the Integrated Transportation Program

12.80.030 Level of Service Standards

12.80.040 Concurrency Requirements

12.80.050 Transportation Impact Fees

12.80.060 Safe Site Access

12.80.070 Procedures for Development Review

12.80.080 Administrative rules

12.80.090 Appeals

12.80.100 Relation to other permit authority.

12.80.110 Exceptions.

12.80.010 Definitions.

- A. "Concurrency" means transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development, so that the level of service on a city transportation facility does not decline below the levels of service adopted in this chapter. "Concurrent with development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years. .
- B. "Mobility Unit" means one PM peak hour person trip end. Each trip has two person trip ends, one each at the origin and destination.
- C. "Transportation Improvement Program" means the annual program of capital transportation projects programmed by the city to be implemented during a six-year period.

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

12.80.020 Components of the Integrated Transportation Program.

There are four components of the City's integrated transportation program, the goal of which is to operate the program safely and efficiently for all modes of travel. These components are as follows:

- A. Level of service (LOS) standards to evaluate the performance of the City's multimodal transportation system and to ensure that the system is built over time to maintain LOS standards (KMC 12.80.030).
- B. Concurrency, defining an adequate transportation system (KMC 12.80.040).
- C. Transportation Impact fees to require new growth and development to pay a proportionate share of the cost of new multimodal transportation improvements to serve the new growth and costs (KMC Chapter 20.47).
- D. Safe Site Access to facilitate safe and efficient operation of the transportation system through site-access improvements (KMC 12,80.060).

12.80.030 Level of Service Standards.

Level of Service Standards are established for different modes of travel within the city:

A. Roadway Level of Service Standards.

- 1) The level of service for roadways shall be as described using the most recent Transportation Research Board *Highway Capacity Manual*. The LOS shall be amended on a date selected by the city manager whenever the LOS in the *Highway Capacity Manual* is amended by the Transportation Research Board. The city manager may select and apply alternative LOS's, to be effective on a date selected by the city manager.
- 2) Roadway LOS shall be by functional classification of roadway :
 - a) Boulevards (Primary Arterials)--LOS "E" or better;
 - b) Urban Avenues and Neighborhood Connections (Minor arterials)LOS "D" or better; and
 - c) Local Streets (Collectors)-- LOS "C" or better (See Transportation Element of Comprehensive Plan.
- 3) Roadway LOS shall be measured at intersections of classified roadways, except as provided in Subsection 4 below.

- 4) Roadway LOS shall be measured at the corridor level on SR 522 and 68th Avenue/Juanita Drive/Simonds Road.
- 5) When a lower classification of roadway intersects with a higher classification of roadway (for example when a local street connects with an urban avenue), the LOS for the higher classification shall apply.

B. Pedestrian Level of Service Standards

- 1) The city has designated a yellow LOS for pedestrian facilities where indicated in the Pedestrian Priority Network (defined in the Transportation Element of the Comprehensive Plan) as the minimum standard to achieve.
- 2) Outside of the Pedestrian Priority Network, the City does not establish an LOS for pedestrian facilities.

C. Bicycle Level of Service Standards

- 1) The city has designated a yellow LOS for bicycle facilities where indicated in the Bicycle Priority Network (as defined in the Transportation Element of the Comprehensive Plan).
- 2) Outside of the Bicycle Priority Network, the City does not establish an LOS for bicycle facilities.

D. Transit Level of Service Standards

- 1) The Transportation Element contains guidance for providing quality transit service, amenities, and access to an identified Transit Priority Network. While the city does not control transit service, it has established the following level of service standards for transit stop amenities and pedestrian access to transit:
 - a) The city has designated a yellow LOS for transit stop amenities and pedestrian access to transit as the minimum standard to achieve.
 - b) Outside of the Transportation Priority Network, the City does not establish an LOS for transit stop facilities.

12.80.040 Concurrency Requirements

- A. Transportation *concurrency* shall be determined using the City owned and maintained *mobility unit* spreadsheet. This spreadsheet compares the amount of transportation capital facilities constructed or programmed in the next six years (*mobility unit* capacity) against the amount of *mobility units* that would be generated by new development (*mobility unit* demand). If the City's *mobility unit* capacity is larger than the *mobility units* that would be generated by new development, then the transportation system will be deemed to be concurrent.
 - 1) *Mobility unit* capacity shall be determined annually in coordination with the city's *transportation improvement program*.
- B. The *city manager* may approve a reduction in estimated *mobility units* based on the types of land uses that are to be developed or expected travel characteristics of the development.
 - 1) The calculation of *mobility unit* reductions as described in KMC 12.80.040 shall be based upon sound and recognized technical information and analytical processes that represent current engineering practice. In all cases, the *city manager* shall have final approval of all such data, information and technical procedures used to calculate *mobility unit* reductions.

12.80.050 Transportation Impact Fees

- A. Transportation impact fees shall be assessed and collected as described in Chapter 20.47 KMC.
- B. *Mobility units* calculated for *concurrency* requirements (KMC 12.80.040) shall also be used to calculate transportation impact fees.

12.80.060 Safe Site Access

- A. Developments shall provide for safe site access to facilitate safe and efficient operation of the multimodal transportation system, in accordance with the City Road Standards adopted by Chapter 12.50 KMC).
- B. For the purposes of this chapter, the developer shall achieve "safe site access" by mitigating either or both of the following when the development is complete and able to generate traffic:

- a. A roadway intersection that provides access to a proposed development and that will function at a level of service worse than specified in KMC [12.80.030](#); or
 - b. A roadway intersection or approach lane where the *city manager* determines that a hazard to safety could reasonably result.
- C. The developer shall provide improvements which bring the site access into compliance with the level of service and within a time schedule as may be required by the city manager. Approval to construct the development shall not be granted until the developer has satisfied the concurrency definition and its elements, as set forth in KMC 12.80.010(A)..

12.80.070 Procedures for Development Review

A. Following the submission of a development application, the *city manager* shall calculate the transportation impact fee to be paid under KMC Chapter 20.47, and shall determine whether necessary transportation improvements are provided for as set forth in KMC 12.80.010(A), and that any required site access improvements are provided.

12.80.080 Administrative rules

For transportation impact fees, transportation *concurrency*, and safe site access, the *city manager* may adopt such administrative rules and procedures as are necessary to implement this chapter.

12.80.090 Appeals

A. The city manager's final decision on impact fees and/or transportation *concurrency* may be appealed to the hearing examiner using the procedures set forth in KMC Chapter 19.30. The appeal shall be submitted within 21 calendar days of the date of issuance of the City's written decision.

B. Along with the information required by KMC 19.30.080.B, the applicant must show that either:

- 1) The City committed a technical error; or

2) Alternative data or a mitigation plan submitted to the City was inadequately considered.

12.80.100 Relation to Other Permitting Authority.

The procedures set forth in this chapter do not limit the authority of the City to deny or to approve with conditions the following:

- A. Any zone reclassification request, based on its expected impacts on the multimodal transportation system;
- B. Any proposed development or zone reclassification, if the City determines that a hazard to safety would result from direct traffic impacts of the development or reclassification, without roadway or intersection improvements, regardless of level of service standards; or
- C. Any proposed development subject to review under the Washington State Environmental Policy Act.

12.80.110 Exceptions.

The *city manager* may grant an exception to or deviation from the requirements of this chapter. Any exception or deviation shall be in writing and supported by a finding that extraordinary conditions exist which make full compliance infeasible or which would be an unreasonable hardship.

18.20 Level of service and Mobility Unit Definitions

18.20.1580 Level of service

“Level of service (LOS)” means a measure of transportation system performance or completeness (by mode of travel) determined in accordance with Chapter [12.80](#) KMC.

18.20.1761 Mobility Unit.

A “Mobility Unit” means one PM peak hour person trip end. Each person trip has two trip ends, one each at the origin and destination.

18.20.3077 Transportation Concurrency

“Transportation Concurrency” means that the transportation improvements or strategies to accommodate the impacts of development that are made concurrent with the development, as described in KMC 12.80.010(A). Transportation concurrency shall be measured by mobility units, comparing the amount of transportation capital facilities constructed or programmed in the next six years (mobility unit capacity) against the amount of mobility units that would be generated by new development (mobility unit demand). If the City’s mobility unit capacity is larger than the mobility units that would be generated by new development, then the transportation system will be deemed concurrent.

18.45 Development Standards – Adequacy of Public Facilities and Services

Chapter **18.45**
DEVELOPMENT STANDARDS – ADEQUACY OF PUBLIC FACILITIES AND SERVICES

Sections:

- [18.45.010 Purpose.](#)
- [18.45.020 General requirements.](#)
- [18.45.030 Adequate sewage disposal.](#)
- [18.45.040 Adequate water supply.](#)
- [18.45.050 Surface water management.](#)
- [18.45.060 Adequate transportation system.](#)
- [18.45.070 Adequate vehicular access.](#)
- [18.45.080 Adequate fire protection.](#)
- [18.45.090 School concurrency – Applicability and relationship to fees.](#)
- [18.45.100 Findings, recommendations, and decisions regarding school capacities.](#)
- [18.45.120 School concurrency standard.](#)
- [18.45.130 Credit for improvements.](#)

18.45.010 Purpose.

The purpose of this chapter is to ensure that public facilities and services necessary to support *development* are adequate or will be provided in a timely manner consistent with the public facilities and services planning goal of the Washington State Growth Management Act of 1990 by:

- A. Specifying the on-site and off-site facilities and services that must be in place or otherwise assured of timely provision prior to *development*;
- B. Allocating the cost of those facilities and services fairly; and
- C. Providing a general framework for relating development standards and other requirements of this code to:
 - 1. Adopted service level standards for public facilities and services;
 - 2. Procedural requirements for phasing development projects to ensure that services are provided as *development* occurs; and
 - 3. The review of *development permit* applications. [Ord. 11-0329 § 3 (Exh. 1).]

18.45.020 General requirements.

A. All new *development proposals* including any *use*, activity or *structure* that requires *City* approval shall be adequately served by the following facilities and services prior to the time of occupancy, recording or other land use approval, as further specified in this chapter:

1. Sewage disposal;
2. Water supply;
3. Surface water management;
4. *Streets* and access;
5. Fire protection service; and
6. Schools.

B. Applications for all new *development proposals* requiring water or sewer service shall include a certificate of water availability and a certificate of sewer availability from the *department* to demonstrate compliance with this chapter and other provisions of this code, the comprehensive plan and the Growth Management Act.

C. Regardless of the number of sequential permits required, the provisions of this chapter shall be applied only once to any single *development proposal*. If changes and modifications result in impacts not considered when the proposal was first approved, the *City* shall consider the revised proposal as a new *development proposal*. [Ord. 11-0329 § 3 (Exh. 1).]

18.45.030 Adequate sewage disposal.

All new *development* shall be served by an adequate public or *private* sewage disposal system, including both collection and treatment facilities as follows:

A. A public sewage disposal system is adequate for a *development proposal*; provided, that:

1. For the issuance of a building permit, preliminary plat or short plat approval or other land use approval, the *site* of the proposed *development* is or can be served by an existing disposal system consistent with KMC Title [13](#), and the disposal

system has been approved by the *department* as being consistent with applicable State and local design and operating guidelines;

2. For the issuance of a certificate of occupancy for a building or change of use permit, the approved public sewage disposal system as set forth in subsection (A)(1) of this section is installed to serve each *building* or *lot*;

3. For a zone *reclassification*, the timing of installation of required sewerage improvements shall be contained in the approving ordinance; and

B. A *private* individual sewage system is adequate, if an on-site sewage disposal system for each individual *building* or *lot* is installed to meet the requirements and standards of Seattle/King County public health as to lot size, soils and system design prior to issuance of a certificate of occupancy for a building or change of use permit. [Ord. 11-0329 § 3 (Exh. 1).]

18.45.040 Adequate water supply.

All new *development* shall be served by an adequate public or *private* water supply system as follows:

A. A public water system is adequate for a *development proposal*; provided, that:

1. For the issuance of a building permit, preliminary plat or short plat approval or other land use approval, the *applicant* must demonstrate that the existing water supply system available to serve the *site*:

a. Complies with the applicable planning, operating and design requirements of Chapter [246-290](#) WAC; Chapters [12.50](#) and [12.55](#) KMC and KMC Title [15](#); coordinated water system plans; KMC Titles [8](#), [9](#), and [13](#) and other applicable provisions of the rules and regulations of Seattle/King County public health; and any limitation or condition imposed by the *City*-approved comprehensive plan of the water purveyor; and

b. The proposed improvements to an existing water system have been reviewed by the *department* and determined to comply with the design standards and conditions specified in subsection (A)(1)(a) of this section; or

c. A proposed new water supply system has been reviewed by the *department* and determined to comply with the design standards and conditions specified in subsection (A)(1)(a) of this section;

2. Prior to issuance of a certificate of occupancy for a building or change of use permit, the approved public water system and any system improvements set forth in subsection (A)(1) of this section shall be installed to serve each *building* or *lot* respectively;

3. For a zone *reclassification*, the timing of installation of required water system improvements shall be included in the approving ordinance.

B. An on-site, individual water system is adequate and the plat or short plat may receive preliminary and final approval, and a building or change of use permit may be issued, if:

1. The *buildings* or *lots* to be served are located outside of a *City*-approved water purveyor service area; or

2. The water purveyor has indicated that service cannot be provided in compliance with the purveyor's approved comprehensive plan; and

3. Seattle/King County public health has approved the proposed method of water supply in accordance with the applicable health rules and regulations and this section. The *applicant* shall provide appropriate information to demonstrate to the *department* and Seattle/King County public health that a *private* individual water system will be adequate. Seattle/King County public health may require installation of *private* individual water systems prior to final approval of a plat or short plat where information is insufficient to show an adequate water supply can be made available. [Ord. 11-0329 § 3 (Exh. 1).]

18.45.050 Surface water management.

All new *development* shall be served by an adequate surface water management system as follows:

A. The proposed system is adequate if the *development proposal site* is served by a surface water management system approved by the *department* as being consistent with the design, operating and procedural requirements of the Surface Water Design Manual and KMC Title [13](#);

B. For a subdivision, short subdivision, zone *reclassification*, site plan review or master plan, the phased installation of required surface water management improvements shall be stated in the conditions of project approval. Such phasing may require that a bond or similar security be deposited with the *City*; and

C. An adjustment from the requirements of the Surface Water Design Manual and KMC Title [13](#) shall be reviewed as set forth in KMC [13.35.050](#) and does not require a *variance* from this title unless relief is requested from a building height, *setback*, *landscaping* or other development standard set forth in this title. [Ord. 11-0329 § 3 (Exh. 1).]

18.45.060 Adequate Transportation System.

A. All new *development* shall be served by an adequate *transportation system* as described in Chapter 12.80.20.

B. As a result of the impact created by a proposed *development*, dedication or deeding to the *City* of right-of-way or a portion thereof for public *streets* in accordance with *City street* standards shall be required within or along the boundaries of the *site*:

1. Where the six-year capital improvement plan indicates the necessity of a new right-of-way or portion thereof for *street* purposes;
2. Where necessary to extend or to complete the existing or future neighborhood *street* pattern as shown on the *City* street map (see KMC Title [12](#));
3. Where necessary to provide additions of right-of-way to existing *City* right-of-way;
4. Where necessary to conform to *City street* standards or *City street* improvement projects; or
5. Where necessary to provide a public transportation system that supports future development of abutting property consistent with the Kenmore comprehensive plan.

C. A *variance* request from the *street* cross-section or construction standards established by KMC Title [12](#), Streets and Bridges, shall be reviewed as set forth in KMC [12.50.060](#) and does not require a *variance* from this title unless relief is requested from a building

height, *setback*, *landscaping* or other development standard set forth in this title. [Ord. 11-0329 § 3 (Exh. 1).]

18.45.070 Adequate vehicular access.

All new *development* shall be served by adequate vehicular access as follows:

A. The property upon which the *development proposal* is to be located has direct access to:

1. A public or *private street* that meets *City street* standards or is formally declared acceptable by the *city manager*; or
2. The property has access to such a *street* over a *private* driveway approved by the *City*;

B. Every *lot* upon which one or more *buildings* is proposed to be erected, or traffic generating *use* is proposed to be established, shall establish safe access as follows:

1. Safe passage from the *street* right-of-way to building entrances for transit patrons and other pedestrians, in accordance with the design standards set forth in Chapter [18.40](#) KMC;
2. Direct access from the *street* right-of-way, fire lane or a *parking space* to any part of the property as needed to provide public services in accordance with adopted standards (e.g., fire protection, emergency medical service, mail delivery or trash collection); and
3. Direct access from the *street* right-of-way, driveway, *alley* or other means of ingress/egress approved by the *City*, to all required off-street *parking spaces* on the premises. [Ord. 11-0329 § 3 (Exh. 1).]

18.45.080 Adequate fire protection.

All new *development* shall be served by adequate fire protection as set forth below:

A. The *site* of the *development proposal* shall be served by a water supply system that provides at least minimum fire flow and a *street* system or fire lane system that provides life safety/rescue access, and other fire protection requirements for *buildings* as required by KMC Title [15](#);

B. For a zone *reclassification*, the timing of installation of required fire protection improvements shall be stated in the approving ordinance, secured with a bond or similar security, and deposited with the *City*; and

C. A *variance* request from the requirements established by KMC Title [15](#) shall be reviewed as set forth in KMC 15.15.090 and/or in Article 2 of the currently adopted edition of the fire code and does not require a *variance* from this title unless relief is requested from a building height, *setback*, *landscaping* or other development standard set forth in this title. [Ord. 11-0329 § 3 (Exh. 1).]

18.45.090 School concurrency – Applicability and relationship to fees.

A. The school concurrency standard set out in KMC [18.45.120](#) shall apply to applications for preliminary plat, short plats of more than four lots, *mobile home parks*, requests for multifamily zoning, and land use and building permits for multifamily housing projects which have not been previously evaluated for compliance with the concurrency standard.

B. The *City*'s finding of concurrency shall be made at the time of preliminary plat, short plat or other land use permit approval, at the time that a request to actualize potential multifamily zoning is approved, at the time a *mobile home park* site plan is approved, or prior to building permit issuance for multifamily housing projects which have not been previously established for compliance with the concurrency standard. Once such a finding has been made, the *development* shall be considered as vested for purposes of the concurrency determination.

C. Excluded from the application of the concurrency standard are:

1. Building permits for individual single-family dwellings;
2. Any form of housing exclusively for *senior citizens*, including nursing homes and retirement centers;
3. *Shelters for temporary placement, relocation facilities and transitional housing facilities*;
4. Replacement, reconstruction or remodeling of existing *dwelling units*;
5. Short subdivisions of four or less lots; and

6. Any residential building permit for any *development proposal* for which a concurrency determination has already been made pursuant to the terms of this title.

D. All of the *development* activities which are excluded from the application of the concurrency standard are subject to school impact fees imposed pursuant to KMC Title [20](#).

E. The assessment and payment of impact fees are governed by and shall be subject to the provisions in KMC Title [20](#) addressing school impact fees.

F. A certification of concurrency for a school district shall not preclude the City from collecting impact fees for the district. [Ord. 11-0329 § 3 (Exh. 1).]

18.45.100 Findings, recommendations, and decisions regarding school capacities.



A. The *city manager* and/or the *hearing examiner*, in the course of reviewing proposals for residential *development* including applications for plats, short plats, or land use approvals for multifamily housing projects, *mobile home parks*, or multifamily zoning, and multifamily building permits, shall consider the *school district's capital facilities plan*.

B. The *school district* is authorized to present testimony and documents demonstrating a lack of concurrency in the district and the inability of the district to accommodate the students to be generated by a specific *development*.

C. Based upon a finding that the impacts generated by the plat, short plat, *mobile home park* or the multifamily *development* were generally not anticipated at the time of the last approval of a *school district capital facilities plan* and were not included in the district's long-range forecast, the *city manager* may require or recommend phasing or provision of the needed facilities and/or sites as appropriate to address the deficiency or deny or condition approval, consistent with the provisions of this chapter, the State Subdivision Act, and the State Environmental Policy Act.

D. Determinations of the *hearing examiner* or *city manager* regarding concurrency can be appealed only pursuant to the provisions for appeal of the *development permit* process for which the determination has been made. Where no other administrative appeal process is available, an appeal may be taken to the *hearing examiner* using the appeal procedures for *variances*. Any errors in the formula identified as a result of an appeal should be referred to the council for possible modifications.

E. Where the council has not adopted an impact fee ordinance for a particular *school district*, the language of this section shall not affect the authority or duties of the *hearing examiner* or the *city manager* pursuant to the State Environmental Policy Act or the State Subdivision Act. [Ord. 11-0329 § 3 (Exh. 1).]

18.45.120 School concurrency standard.

A. Schools shall be considered to have been provided concurrently with the *development* which will impact the schools if:

1. The permanent and interim improvements necessary to serve the *development* are planned to be in place at the time the impacts of *development* are expected to occur; or
2. The necessary financial commitments are in place to assure the completion of the needed improvements to meet the *school district's* standard of service within three years of the time that the impacts of *development* are expected to occur. Necessary improvements are those facilities identified by the *school district* in its capital facilities plan.

B. Any combination of the following shall constitute the "necessary financial commitments" for the purposes of subsection A of this section:

1. The district has received voter approval of and/or has bonding authority;
2. The district has received approval for federal, State, or other funds;
3. The district has received a secured commitment from a developer that the developer will construct the needed *permanent school facility*, and the *school district* has found such facility to be acceptable and consistent with its capital facilities plan; and/or
4. The district has other assured funding, including but not limited to school impact fees which have been paid.

C. Compliance with this concurrency requirement of this section shall be sufficient to satisfy the provisions of RCW [58.17.060](#) and [58.17.110](#). [Ord. 11-0329 § 3 (Exh. 1).]

18.45.130 Credit for improvements.

Whenever a *development* is granted approval subject to a condition that the development proponent actually provide a *permanent school facility* acceptable to the district, the development proponent shall be entitled to a credit for the actual cost of providing the facility, against the fee that would be chargeable under the formula provided by KMC Title [20](#). The cost of construction shall be estimated at the time of approval, but must be documented and the documentation confirmed after the construction is completed to assure that an accurate credit amount is provided. If construction costs are less than the calculated fee amount, the difference remaining shall be chargeable as a school impact fee. [Ord. 11-0329 § 3 (Exh. 1).]

[Home](#) [<](#) [>](#)

The Kenmore Municipal Code is current through Ordinance 15-0405, passed September 21, 2015.

Disclaimer: The City Clerk's Office has the official version of the Kenmore Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.kenmorewa.gov/>

City Telephone: (425) 398-8900

[Code Publishing Company](#)

[Mobile Version](#)

19.30 Appeals

19.30.070 Appeals.

A. The hearing examiner shall receive and examine available information, conduct open record public hearings and prepare records and reports thereof, and issue final decisions, including findings and conclusions, based on the issues and evidence in the record, which shall be appealable to superior court, or to other designated authority in the following cases:

1. Appeals of all Type 2 land use decisions with the exception of appeals of shoreline permits including shoreline variances and conditional uses which are appealable to the State Shoreline Hearings Board;
2. Appeals from notices of violation issued pursuant to Chapter [1.20](#) KMC;
3. Appeals from decisions regarding the abatement of a nonconformance;
4. Appeals from decisions of the *city manager* on requests for rate adjustments to surface and stormwater management rates and charges;
5. Appeals from police department seizures and intended forfeitures, when properly designated by the chief law enforcement officer of that department as provided in RCW [69.50.505](#);
6. Appeals from notices and certifications of junk vehicles to be removed as a public nuisance as provided in KMC Title [18](#);
7. Appeals from the *city manager's* final decisions regarding the transportation concurrency, safe site access, and impact fees provisions of Chapter [12.80](#) KMC;
8. Appeals under Chapter [19.35](#) KMC (the State Environmental Policy Act – SEPA);
9. Appeals of decisions for the licensing of adult cabarets and adult retail businesses;
10. Appeals from written interpretations of the zoning code under KMC [18.10.070](#);
11. Appeals of flood hazard area boundaries under KMC [16.90.140](#);
12. Appeals from a preliminary determination that a proposed development is not permissible under KMC [19.25.030](#); and
13. Other appeals which the *council* may prescribe by ordinance.

B. The hearing examiner's decision may be to grant or deny the application or appeal, or the hearing examiner may grant the application or appeal with such conditions, modifications and restrictions as the hearing examiner finds necessary.

C. The process for appeals shall be as specified in this chapter, unless otherwise described in the specific appeals provisions of other chapters of the KMC, including Chapter 1.20 KMC, Code Enforcement. [Ord. 12-0334 § 19; Ord. 11-0329 § 3 (Exh. 1).]

20.47 Transportation and Parks Impact Fees

Chapter 20.47
TRANSPORTATION AND PARK IMPACT FEES

Sections:

Article I. General

- 20.47.010 Findings and authority.**
- 20.47.020 Definitions.**
- 20.47.030 Assessment of impact fees.**
- 20.47.040 Exemptions.**
- 20.47.050 Credits.**
- 20.47.060 Tax adjustments.**
- 20.47.070 Appeals.**
- 20.47.080 Establishment of impact fee accounts.**
- 20.47.090 Refunds.**
- 20.47.100 Use of funds.**
- 20.47.110 Review.**

Article II. Rates

- 20.47.120 Transportation impact fee.**
- 20.47.130 Park impact fee.**
- 20.47.140 Independent fee calculations.**

Article III. Miscellaneous Provisions

- 20.47.150 Existing authority unimpaired.**
- 20.47.155 Park space in lieu of impact fee.**

Article I. General

20.47.010 Findings and authority.

The city council of the City of Kenmore (the "council") hereby finds and determines that new growth and development, including but not limited to new *residential*, commercial, retail, office, and industrial development, in the City of Kenmore will create additional demand and need for *public facilities* in the City of Kenmore, and the council finds that new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development. The City of Kenmore has conducted extensive studies documenting the procedures for measuring the impact of new developments on *public facilities*, has prepared the *rate study* and *parks study*, and hereby incorporates these studies into this chapter by reference. Therefore, pursuant to Chapter [82.02](#) RCW, the council adopts this chapter to assess impact fees for transportation and parks. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. [Ord. 11-0329 § 16 (Exh. 3).]

20.47.020 Definitions.

The following words and terms shall have the following meanings for the purposes of this chapter, unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW [82.02.090](#), or given their usual and customary meaning.

- A. "Accessory dwelling unit" means a separate complete *dwelling unit* attached to or contained within the *structure* of the primary dwelling; or contained within a separate *structure* that is accessory to the primary *dwelling unit* on the premises.
- B. "Building permit" means an official document or certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.
- C. "Capital facilities plan" means the capital facilities plan element of a comprehensive plan adopted by the City of Kenmore pursuant to Chapter [36.70A](#) RCW, and such plan as amended.
- D. "City manager" means the city manager or the city manager's designee.
- E. "Council" means the city council of the City of Kenmore.
- F. "Development activity" means any construction, expansion, or change in the use of a building or structure that creates additional demand and need for *public facilities*.

G. "Development approval" means any written authorization from the City of Kenmore which authorizes the commencement of a *development activity*.

H. "Dwelling unit" means one or more rooms designed for occupancy by a person or *family* for living and sleeping purposes, containing *kitchen facilities* and rooms with internal accessibility, for use solely by the dwelling's occupants. *Microhousing dwelling units* may share *kitchen facilities* with other dwelling units in place of providing *kitchen facilities* within each unit.

I. "Encumbered" means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for *public facilities*.

J. "Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation, commencing a land *development activity* which creates the demand for additional capital facilities, and which requires the issuance of a *building permit*. "Feepayer" includes an applicant for an impact fee credit.

K. "Gross floor area" means the total square footage of any building, structure, or use, including accessory uses.

L. "Hearing examiner" means the examiner who acts on behalf of the City in considering and applying land use regulatory codes as provided under this code. Where appropriate, "hearing examiner" also refers to the office of the hearing examiner.

M. "Impact fee" means a payment of money imposed by the City of Kenmore on *development activity* pursuant to this title as a condition of granting *development approval* in order to pay for the *public facilities* needed to serve new growth and development. "Impact fee" does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling impact fees, or the cost of reviewing independent fee calculations.

N. "Impact fee account" or "account" means the account(s) established for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to KMC [20.47.080](#) and [20.47.090](#), and comply with the requirements of RCW [82.02.070](#).

O. "Independent fee calculation" means the transportation impact calculation, park impact calculation, and/or economic documentation prepared by a *feepayer* to support the assessment of an *impact fee* other than by the use of the rates listed in Article II of this chapter, or the calculations prepared by the *city manager* where none of the fee categories or fee amounts in Article II of this chapter accurately describe or capture the impacts of the new development.

P. "Interest" means the average interest rate earned in the last fiscal year by the City of Kenmore.

Q. "ITE Land Use Code" means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the version of "Trip Generation" adopted by the city.

R. "Low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size in King County, as determined by the United States Department of Housing and Urban Development (HUD). In the event that HUD no longer publishes median income figures for King County, the county may use or determine such other method as it may choose to determine the King County median income, adjusted for household size..

S. "Mobility Unit" means one PM peak hour person trip end. Each person trip has two trip ends, one each at the origin and destination.

T. "Open space" means for the purposes of this chapter undeveloped public land that is permanently protected from development (except for the development of trails or other passive public access or use).

U. "Owner" means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

V "Parks" means parks, *open space*, and recreational facilities, including but not limited to ball fields, golf courses, athletic fields, soccer fields, swimming pools, tennis courts, volleyball courts, neighborhood parks, community parks, and *open space*.

V "Parks study" means the "Rate Study for Impact Fees for Parks," City of Kenmore, dated May 15, 2001.

W. "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, and are not system improvements. No improvement or facility included in a *capital facilities plan* adopted by the *council* shall be considered a project improvement.

X. "Public facilities" means the following capital facilities owned or operated by the City of Kenmore or other governmental entities: (1) public transportation facilities; and (2) publicly owned *parks, open space*, and recreation facilities.

Y. "Rate study" means the "Transportation Impact Fee Rate Study Update," prepared for the City of Kenmore by Fehr & Peers, dated December 2015.

Z. "Residential" or "residential development" means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, and other multifamily development.

AA. "Square footage" means the square footage of the *gross floor area* of the development.

BB. "State" means the State of Washington.

CC. "System improvements" means *public facilities* that are included in the City of Kenmore's *capital facilities* plan and are designed to provide service to service areas within the community at large, in contrast to *project improvements*. [Ord. 11-0329 § 16 (Exh. 3).]

DD. "Transportation Facility" means easements or right-of-way that enables motor vehicles, transit vehicles, bicycles and/or pedestrians to travel between destinations

EE. "Trip Generation" means the number of *mobility units* generated by a *development activity*.

20.47.030 Assessment of impact fees.

A. The City shall collect *impact fees*, based on the rates in Article II of this chapter, from any applicant seeking *development approval* from the City for any *development activity* within the City, where such *development activity* requires the issuance of a building permit.

B. For mixed use developments, *impact fees* shall be imposed for the proportionate share of each land use based on the applicable measurement in the *impact fee* rates set forth in Article II of this chapter.

C. *Impact fees* shall be calculated at the time the complete application for a building permit is submitted using the *impact fee* rates then in effect. Except as provided in subsection F of this section, *impact fees* shall be paid at the time the permit is issued by the City.

D. Applicants that have been awarded credits prior to the submittal of the complete *building permit* application pursuant to KMC [20.47.050](#) shall submit, along with the complete *building permit* application, a copy of the letter or certificate prepared by the *city manager* pursuant to KMC [20.47.050](#) setting forth the dollar amount of the credit awarded. Except as provided in subsection F of this section, *impact fees*,

as determined after the application of appropriate credits, shall be collected from the *feepayer* at the time the *building permit* is issued.

E. Except as provided in subsection F of this section, the *city manager* shall not issue the required permit unless and until the *impact fees* set forth in Article II of this chapter have been paid in the amount that they exceed exemptions or credits provided pursuant to KMC [20.47.040](#) or [20.47.050](#).

F. An applicant for a building permit for a single-family detached or attached residence may request a deferral of the full *impact fee* payment, deferring collection of the *impact fee* payment until issuance of a certificate of occupancy or equivalent certification. The certificate of occupancy or equivalent certification shall be withheld until the *impact fees* have been paid in full. The amount of *impact fees* that may be deferred must be determined by the fees in effect at the time the permit application is deemed complete. The term of an *impact fee* deferral under this subsection may not exceed eighteen months from the date of *building permit* issuance. An applicant seeking a deferral under this subsection must grant and record a deferred *impact fee* lien against the property in favor of the city in the amount of the deferred *impact fee*. The deferred *impact fee* lien, which must include the legal description, tax account number, and address of the property, must also be:

- (i) In a form approved by the city;
- (ii) Signed and notarized by all *owners* of the property, with all signatures acknowledged as required for a deed, and recorded in the county where the property is located;
- (iii) Binding on all successors in title after the recordation; and
- (iv) Junior and subordinate to any mortgage or deed of trust for the purpose of construction upon the same real property granted by the person who applied for the deferral of *impact fees*.

If *impact fees* are not paid in accordance with a deferral authorized by this subsection, and in accordance with the term provisions established in this subsection, the city may institute foreclosure proceedings in accordance with chapter 61.12 RCW. Upon receipt of final payment of all deferred *impact fees* for a property, the city must execute a release of deferred *impact fee* lien for the property. The property *owner* at the time of the release, at his or her expense, is responsible for recording the lien release. The extinguishment of a deferred *impact fee* lien by the foreclosure of a lien having priority does not affect the obligation to pay the *impact fees* as a condition of final inspection, certificate of occupancy, or equivalent certification. Each applicant for a single-family *residential* construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals under this subsection for the first twenty single-family *residential* construction *building permits* per city. A non-refundable fee, as set forth in a fee resolution adopted by the city council, associated with implementing this subsection shall accompany the request.

20.47.040 Exemptions.

A. Except as provided for below, the following shall be exempted from the payment of all *impact fees*:

1. Alteration expansion or replacement of an existing *residential* structure that does not add any *dwelling units*;
2. Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs;
3. Demolition or moving of a structure;
4. Expansion or replacement of an existing single-family residential structure that maintains its single family character.
5. Replacement of a nonresidential structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet;
6. Any permit application that has been submitted to the City before closing time on the business day before the effective date of an amendment to this chapter and subsequently determined to be a complete application, based on the information on file as of the effective date of this amendment;
7. Pursuant to RCW 82.02.060, the City may provide exemptions for low-income housing and other development activities with broad public purposes. The impact fees amounts waived in excess of 80% for low income housing pursuant to RCW 82.02.060 (3) will be paid for through the city's other funding sources, as identified in the December 2015 Transportation Impact Fees rate study by Fehr & Peers..
8. *Accessory dwelling units*, provided that *impact fees* would be assessed if at any time the *accessory dwelling unit* was converted to another land use or *dwelling unit* based on the fees in effect at conversion.

20.47.050 Credits.

A. A *feepayer* can request that a credit or credits for *impact fees* be awarded to him/her for the total value of dedicated land, improvements, or construction provided by the *feepayer*. Credits will be given only if the land, improvements, and/or the facility constructed are:

1. Included within the *capital facilities plan* and identified on the list of *impact fee* projects in the *Rate Study*; and

2. At suitable sites and constructed at acceptable quality as determined by the City.

B. The *city manager* shall determine if requests for credits meet the criteria in subsection A of this section.

C. For each request for a credit or credits the *city manager* shall select an appraiser or the *feepayer* may select an independent appraiser acceptable to the *city manager*.

D. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he or she does not have a fiduciary or personal interest in the property being appraised.

E. The appraiser shall be directed to determine the total value of the dedicated land, improvements, and/or construction provided by the *feepayer* on a case-by-case basis.

F. The *feepayer* shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the *city manager* may be providing to the *feepayer*, in the event that a credit is awarded.

G. After receiving the appraisal the *city manager* shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his or her agreement to the terms of the letter or certificate, and return such signed document to the *city manager* before the *impact fee* credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

H. No credit shall be given for *project improvements*.

J. Any claim for credit must be made with the *impact fee* calculation submittal. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

K. Determinations made by the *city manager* pursuant to this section shall be subject to the appeals procedures set forth in KMC [20.47.070](#). [Ord. 11-0329 § 16 (Exh. 3).]

20.47.060 Tax adjustments.

Pursuant to and consistent with the requirements of RCW [82.02.060](#), the *rate study* and *parks study* have provided adjustments for future taxes to be paid by the new development which are earmarked or proratable to the same new *public facilities* which will serve the new development. The *impact fee* rates in

Article II of this chapter have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund public improvements. [Ord. 11-0329 § 16 (Exh. 3).]

20.47.070 Appeals.

A. Appeals of transportation impact fees must be conducted according to KMC 12.80.090.

B Appeals of parks impact fees must be conducted as follows:

1. Appeals may only be filed by the *feepayer* of the property where such *development activity* will occur.

2. The *feepayer* must first file a request for review regarding *impact fees* with the *city clerk*, as follows:

i. The request shall be in writing on the form provided by the City;

ii. The request for review by the *city manager* shall be filed within 14 calendar days of the *feepayer's* payment of the *impact fees* at issue; the failure to timely file such a request shall constitute a final bar to later seek such review;

iii. No administrative fee will be imposed for the request for review by the *city manager*; and

iv. The *city manager* shall issue his or her determination in writing.

3. Determinations of the *city manager* with respect to the applicability of the *impact fees* to a given *development activity*, the availability or value of a credit, or the *city manager's* decision concerning the *independent fee calculation* which is authorized in Article II of this chapter, or the fees imposed by the *city manager* pursuant to Article II of this chapter, or any other determination which the *city manager* is authorized to make pursuant to this title, can be appealed to the hearing examiner.

4. Appeals shall be taken within 14 calendar days of the *city manager's* issuance of a written determination by filing a notice of appeal specifying the grounds thereof, and depositing the necessary fee, which is set forth in the existing fee schedules for appeals of such decisions. The *city manager* shall transmit to the office of the hearing examiner all papers constituting the record for the determination, including, where appropriate, the *independent fee calculation*.

5. The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same as provided in this code. At the hearing, any party may appear in person or by agent or attorney.

6. The hearing examiner is authorized to make findings of fact regarding the applicability of the *impact fees* to a given *development activity*, the availability or amount of the credit, or the accuracy or applicability of an *independent fee calculation*. The decision of the hearing examiner shall be final, except as provided in this section.

7. The hearing examiner may, so long as such action is in conformance with the provisions of this chapter, reverse or affirm, in whole or in part, or may modify the determinations of the *city manager* with respect to the amount of the *impact fees* imposed or the credit awarded. [Ord. 11-0329 § 16 (Exh. 3).]

20.47.080 Establishment of impact fee accounts.

A. *Impact fee* receipts shall be earmarked specifically and deposited in special *interest*-bearing accounts.

B. There are hereby established two separate *impact fee* accounts for the fees collected pursuant to this title: the transportation impact account and the *parks* impact account. Funds withdrawn from these accounts must be used in accordance with the provisions of KMC 20.47.100 and applicable *State* law. *Interest* earned on the fees shall be retained in each of the accounts and expended for the purposes for which the *impact fees* were collected.

C. On an annual basis, the *city manager* shall provide a report to the *council* on each of the two *impact fee* accounts showing the source and amount of all monies collected, earned, or received, and the public improvements that were financed in whole or in part by *impact fees*.

D. *Impact fees* shall be expended or *encumbered* within ten years of receipt, unless the *council* identifies in written findings extraordinary and compelling reason or reasons for the City to hold the fees beyond the ten-year period. Under such circumstances, the *council* shall establish the period of time within which the *impact fees* shall be expended or *encumbered*. [Ord. 11-0329 § 16 (Exh. 3).]

20.47.090 Refunds.

A. The current owner of the property on which an impact fee has been paid may receive a refund of such fees if the City fails to expend or encumber the impact fees within ten years of when the fees were paid or such other period of time established pursuant to RCW 82.02.070(3) on public facilities intended to benefit the development activity for which the impact fees were paid. Refunds shall be subject to the

provisions of RCW 82.02.080. The request for refund must be submitted to the city manager in writing.
[Ord. 11-0329 § 16 (Exh. 3).]

20.47.100 Use of funds.

A. Pursuant to this title, *impact fees* shall:

1. Be used for public improvements that will reasonably benefit the new development; and
2. Not be imposed to make up for deficiencies in *public facilities* serving existing developments; and
3. Not be used for maintenance or operation.

B. Transportation *impact fees* may be spent for public improvements, including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable *impact fees* or mitigation costs, and any other expenses which can be capitalized.

C. Park *impact fees* may be spent for public improvements, including, but not limited to, planning for *parks* that will reasonably benefit the new development, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable *impact fees* or mitigation costs, and capital equipment pertaining to park facilities.

D. *Impact fees* may also be used to recoup public improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

E. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which *impact fees* may be expended, *impact fees* may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development.
[Ord. 11-0329 § 16 (Exh. 3).]

20.47.110 Review.

The fee rates set forth in Article II of this chapter may be reviewed and adjusted by the *council* as it deems necessary and appropriate in conjunction with the annual update of the *capital facilities plan* element of the City's comprehensive plan. The *council* may determine the amount of the adjustment and revise the fee rates set forth in Article II of this chapter. Absent such affirmative *council* adjustment, the city manager may adjust transportation *impact fees* annually in accordance with a **five year rolling**

average of the Washington State Department of Transportation Construction Cost Index ("CCI"), coinciding with the *city council's* annual fee resolution.

Article II. Rates

20.47.120 Transportation impact fee.

The transportation *impact fee* rates shall be determined by the formula for calculating *impact fees* set forth in the *rate study*, which is incorporated herein by reference. Except as otherwise provided for *independent fee calculations* in KMC [20.47.140](#), exemptions in KMC [20.47.040](#), and credits in KMC [20.47.050](#), all new developments in the City will be charged the transportation *impact fee* applicable to the type of development, in an amount imposed by the *city council* by resolution. [Ord. 11-0329 § 16 (Exh. 3).]

20.47.130 Park impact fee.

The park *impact fee* rates are generated from the formula for calculating *impact fees* set forth in the *parks study* and the Parks, Recreation, and Open Space Plan, which are incorporated herein by reference. Except as otherwise provided for in KMC [20.47.140](#), Independent fee calculations, KMC [20.47.040](#), Exemptions, and KMC [20.47.050](#), Credits, all new *residential* developments in the City will be charged the park *impact fee* applicable to the type of *dwelling unit*, in an amount imposed by the *city council* by resolution. [Ord. 11-0329 § 16 (Exh. 3).]

20.47.140 Independent fee calculations.

A. If, in the judgment of the *city manager*, none of the fee categories or fee amounts set forth in KMC [20.47.120](#) or [20.47.130](#) accurately describe or capture the impacts of a new development on transportation or *parks*, an *independent fee calculation* may be performed and the *city manager* may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the *feepayer*.

B. If a *feepayer* opts not to have the *impact fees* determined according to KMC [20.47.120](#) or [20.47.130](#), then the *feepayer* shall prepare and submit to the *city manager* an *independent fee calculation* for the *development activity* for which a *building permit* is sought. The documentation submitted shall show the basis upon which the *independent fee calculation* was made.

C. Any *feepayer* submitting an *independent fee calculation* will be required to pay the City of Kenmore a fee to cover the cost of reviewing the *independent fee calculation*. The fee required by the City for conducting the review of the *independent fee calculation* shall be imposed by the *city council* by resolution, unless otherwise established by the *city manager*, and shall be paid by the *feepayer* prior to initiation of review.

D. While there is a presumption that the calculations set forth in the transportation *rate study* and *parks study* are valid, the *city manager* shall consider the documentation submitted by the *feepayer*, but is not required to accept such documentation or analysis which the *city manager* reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the *feepayer* to submit additional or different documentation for consideration. The *city manager* is authorized to adjust the *impact fees* on a case-by-case basis based on the *independent fee calculation*, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations shall be set forth in writing and shall be mailed to the *feepayer*.

E. Determinations made by the *city manager* pursuant to this section may be appealed to the office of the hearing examiner as set forth in KMC [20.47.070](#). [Ord. 11-0329 § 16 (Exh. 3).]

Article III. Miscellaneous Provisions

20.47.150 Existing authority unimpaired.

Nothing in this chapter shall preclude the City from requiring the *feepayer* or the proponent of a *development activity* to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter [43.21C](#) RCW, based on the environmental documents accompanying the underlying *development approval* process, and/or Chapter [58.17](#) RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of Chapters [43.21C](#) and [82.02](#) RCW. [Ord. 11-0329 § 16 (Exh. 3).]

20.47.155 Park space in lieu of impact fee.

A. The payment of a *parks impact fee*, consistent with this chapter, shall be the preferred method of meeting park space requirements for all new development, except as follows:

B. At the discretion of the City, the *feepayer* may be able to receive credit towards their *impact fee* for land dedicated, improvements made or other construction completed for park purposes.

1. Such land improvements or construction completed shall be adjacent to other publicly owned land; or
2. Be within an area of the City designated within the City comprehensive plan as in need of park space; or
3. Would in some other way further the goals and objectives of the *capital facilities plan* or other City plans;

4. All such improvements shall be constructed at an acceptable quality as determined by the City. [Ord. 11-0329 § 16 (Exh. 3).]





City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Review of recent amendments to State marijuana statutes. Proposed Council Action/Motion: Direct staff regarding proposed amendments to Kenmore's marijuana rules.	For Council Meeting Agenda of: 4/18/16 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 4/11/16</u> Approved by City Attorney: <u>Phone call, 3/31/16</u> Approved by Finance Director: <u>[Signature] 4/1/16</u> Approved by City Manager: <u>[Signature]</u> Exhibits/Attachments: 1. Current map of restricted marijuana business locations 2. Draft revised map of restricted locations 3. Ordinance 14-0384 4. 2SSB 5052, Cannabis Patient Protection Act 5. 2E2 SHB 2136, Marijuana Market Reforms	
Expenditure Required \$0	Amount Budgeted \$0	Appropriation Required \$0
<u>INFORMATION/BACKGROUND:</u> As a result of State legislation passed in 2015, staff needs direction from the City Council on possible amendments to the City's existing rules for marijuana businesses. Specifically, staff would like direction on: • <u>Whether to reduce the required distances between marijuana businesses and sensitive land uses.</u> The State now permits marijuana business buffer zones to be reduced from 1000' to as little as 100' around recreation centers or facilities, child care centers, public parks, public transit centers, libraries, or game arcades admitting minors. The 1000' buffer must be retained around schools and playgrounds. A reduced buffer area could open up more area in the City for marijuana businesses. Attachment 1 is the current map showing restricted locations for marijuana businesses with 1000' buffers applied. Marijuana businesses are only allowed in the Waterfront Commercial, Urban Corridor and Regional Business zones. Too, no marijuana businesses may locate on parcels within 200' of residential zones or within 1000' of an existing marijuana business. Attachment 2 is a map showing the buffer areas reduced to 100' if local rules were to be changed.		

I:/City Clerk/Agenda Items/Templates

- Whether to allow marijuana cooperatives. Effective July 1, 2016, State legislation created a new type of collective garden—a “cooperative” —for medical marijuana. Cooperatives are to be tightly regulated. All cooperatives must be registered with the State and may grow a maximum of 60 plants. No more than four patients/designated providers may participate in a single cooperative and all participants must hold valid recognition cards. If a member withdraws, the cooperative must wait 60 days before a new member can join. Members must provide nonmonetary resources and labor to the cooperative. Records of the marijuana produced are to be kept from “seed to sale.” Cooperatives cannot be located within one mile of a retailer or within the required buffer zones from sensitive land uses as determined by the state and the city. However, they also are to be *located in the domicile of one of the members*, making the City’s residential neighborhoods prime potential locations.

State rules allow the City to prohibit cooperatives. Police Chief Sether recommends against allowing cooperatives in Kenmore as the city has a retail marijuana business (Theorem) that has applied for a medical marijuana endorsement to sell medical grade marijuana.

- Whether to require mailing of notice to sensitive land uses if a new application for a marijuana retail license is submitted. The City can require that notification of new license applications be sent to schools, playgrounds, recreation centers or facilities, child care centers, churches, public parks, public transit centers, libraries, and game arcades admitting minors within 1000’ of a proposed business. The State rules now require that a public notice sign be posted on the premises when a license application is submitted. The new legislation authorizes the local jurisdiction to require mailing of notice to these sensitive land uses.
- Whether to allow a “marijuana researcher” as a marijuana business in Kenmore. The new legislation created a new entity, a “marijuana researcher.” A researcher is a person licensed by the State Liquor and Cannabis Board (now renamed) to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products. A description of the research must be submitted to the life sciences discovery fund authority.
- Whether to allow qualifying patients and designated providers to process marijuana products. Currently, only “marijuana processors” can process marijuana into products, such as marijuana concentrates and marijuana-infused products. The state provision would allow patients and/or their providers to process marijuana into products using noncombustible methods. The City’s rules prohibit marijuana processors from locating in residential units because of the dangers of fire and explosion from some processing methods. The restriction on combustible methods of processing would ease this concern for processing by patients and/or their providers.

If Council decides to take no action, a medical marijuana collective could locate in a residence in any of the City’s zoning districts, outside of the required buffer zones. Processing of marijuana into products using noncombustible methods would be possible in the residence. It would be unlikely that another marijuana business could come to Kenmore given existing separation requirements. However, if a new or replacement business were to apply for a license, a state-required public notice sign would be posted, but mailed notice would not occur. A marijuana researcher would not be a permitted use in the city.

If the Council wishes to allow additional marijuana businesses in the City, the buffer zones could be reduced, and a new noticing procedure could be put in place. The Council could add a “marijuana researcher” to the list of allowable marijuana businesses.

If the Council does not wish to allow medical marijuana cooperatives in the City, a prohibition should be enacted before July 1, 2016—the effective date of the marijuana cooperative legislation.

Background

The city adopted regulations for recreational marijuana businesses in 2014 (see Ordinance 14-0384, Attachment 3). Since adoption of the rules, one retail marijuana business (Theorem) has been licensed at 6323 NE Bothell Way. In State fiscal year 2015-2016, the city will receive approximately \$249 in tax revenue from Theorem’s operation, based on an estimated one month of operation in State fiscal year 2014/2015. It is anticipated that this revenue will increase for the next fiscal year. Because of the required buffer areas, zoning restrictions and separation requirements, it is extremely unlikely that another marijuana business could locate in Kenmore under existing rules.

The 2015 State legislature adopted several amendments to the State marijuana rules, including addressing medical marijuana businesses (2 SSB 5052 and 2E2 SHB 2136, see Attachments 4 and 5).

Along with the changes described above, significant changes from previous legislation include:

- Establishment of a medical marijuana endorsement to a marijuana retail license to permit a marijuana retailer to sell marijuana for medical use to qualifying patients and designated providers. Standards for medical authorization are strict, requiring that a patient have an ongoing relationship with a doctor, an in-person physical examination, and a periodic renewal of a marijuana authorization following an in-person physical examination. The legislation includes a list of conditions for which medical marijuana may be authorized. The patient or designated provider’s information may be entered into a database at a retailer with a medical marijuana endorsement to obtain a medical marijuana authorization card with photograph, thereby allowing the purchaser to avoid the marijuana excise tax.
- Increase in the number of retail outlets to accommodate the medical needs of qualifying patients and designated providers. As a result of the combining of the medical and recreational marijuana markets, the Liquor and Cannabis Board has made additional retail licenses available to King County at-large applicants (22 instead of 11). With current separation requirements from the existing marijuana business (Theorem) and the 1000’ buffer zones around sensitive land uses, staff does not believe that any additional locations are possible for marijuana retailers under the City’s existing rules.
- Elimination of medical marijuana collective gardens. Kenmore has taken the position for the past couple of years that these businesses are illegal and so no medical marijuana collective gardens are located in the City.
- Ability of a retailer to have two 1600 sq. inch signs, rather than just one.
- State prohibition on drive-through purchases. Kenmore adopted this prohibition into local regulations in 2011.

FISCAL CONSIDERATION:

None at this time. In the future, staff time may be required to develop a regulatory approach.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

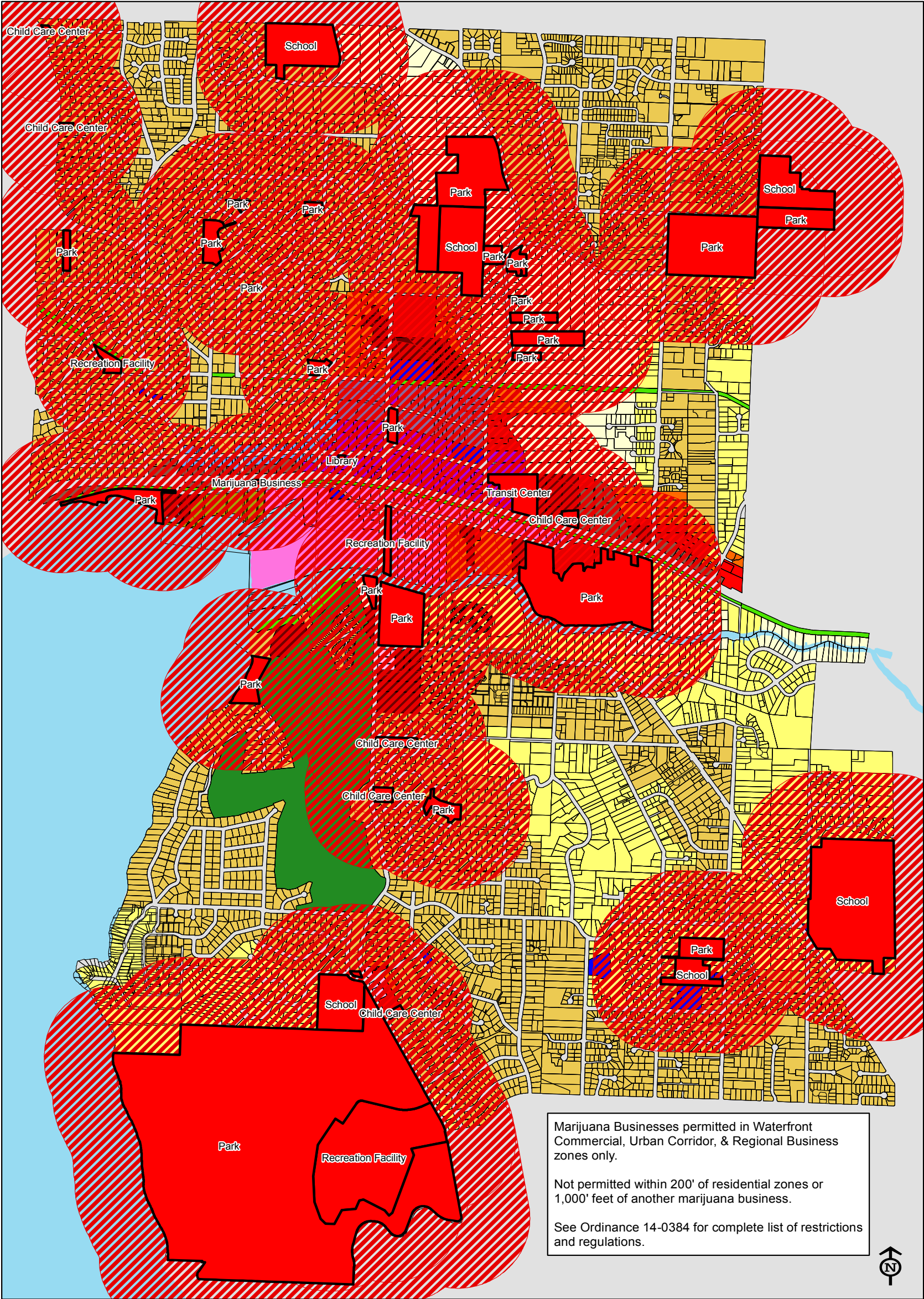
Comprehensive Plan Vision Statement: “We see Kenmore as a community that is attentive to, and

seeks to provide for, the health, safety, and welfare of all its citizens.

Land Use Element Policy LU-1.1.2: "Through land use policies and development regulations that are consistent with state and federal laws, limit land uses and activities that may result in harmful secondary effects to the community, such as crime, vandalism, or neighborhood deterioration. Consider spacing requirements, buffers, landscaping, access, signage controls, business license and operating requirements, as well as other mechanisms to control secondary impacts.

City of Kenmore Restricted Locations - Marijuana Businesses

ATTACHMENT 1



- | | | | |
|-----------------------|-----------------------|--|--|
| Properties | Downtown Commercial | Parks | R-12 (Residential 12 Dwellings Per Acre) |
| Buffer | Downtown Residential | Golf Course | R-18 (Residential 18 Dwellings Per Acre) |
| Regional Business | Community Business | R-1 (Residential 1 Dwelling Per Acre) | R-24 (Residential 24 Dwellings Per Acre) |
| Urban Corridor | Neighborhood Business | R-4 (Residential 4 Dwellings Per Acre) | |
| Waterfront Commercial | Public/Semi-Public | R-6 (Residential 6 Dwellings Per Acre) | |

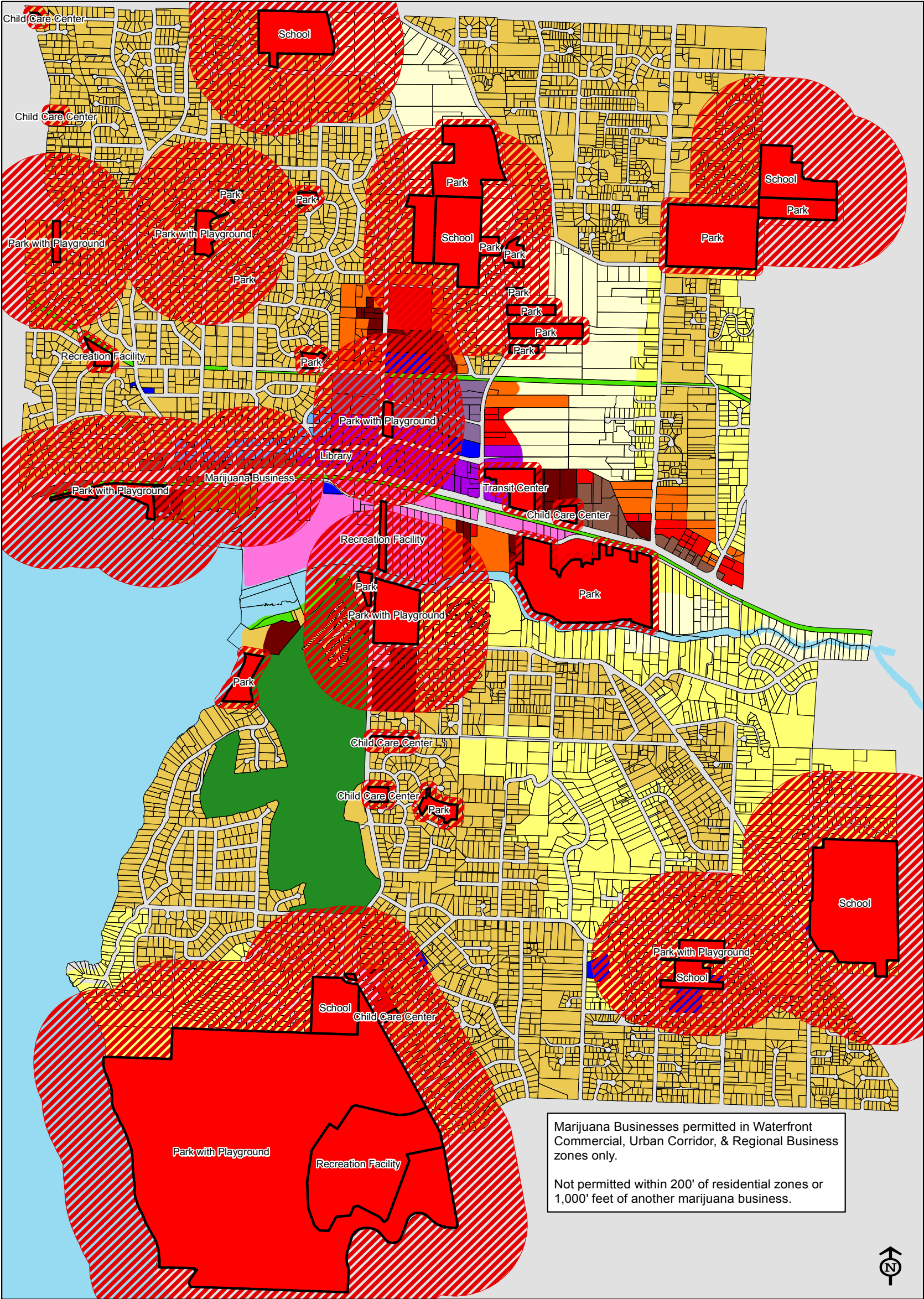


This map is intended for planning purposes only and is not guaranteed to show accurate measurements. Locations of buffered facilities may change over time.

Map Date: March 2016

Draft Alternative Restricted Locations - Marijuana Businesses

ATTACHMENT 2



- | | | | |
|-----------------------|-----------------------|--|--|
| Properties | Downtown Commercial | Parks | R-12 (Residential 12 Dwellings Per Acre) |
| Buffer | Downtown Residential | Golf Course | R-18 (Residential 18 Dwellings Per Acre) |
| Regional Business | Community Business | R-1 (Residential 1 Dwelling Per Acre) | R-24 (Residential 24 Dwellings Per Acre) |
| Urban Corridor | Neighborhood Business | R-4 (Residential 4 Dwellings Per Acre) | |
| Waterfront Commercial | Public/Semi-Public | R-6 (Residential 6 Dwellings Per Acre) | |



This map is intended for planning purposes only and is not guaranteed to show accurate measurements. Locations of buffered facilities may change over time.

Map Date: March 2016

Attachment 3

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 14-0384**

AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON, REGULATING MARIJUANA BUSINESSES; REPEALING THE MORATORIUM ON MARIJUANA BUSINESSES; REPEALING THE INTERIM ZONING REGULATIONS FOR MARIJUANA BUSINESSES IN RESIDENTIAL ZONES; AMENDING THE KENMORE MUNICIPAL CODE TO ADD DEFINITIONS; PROHIBITING MARIJUANA BUSINESSES IN CERTAIN ZONING DISTRICTS; PERMITTING MARIJUANA BUSINESSES IN A ZONING DISTRICT; AMENDING THE KENMORE MUNICIPAL CODE TO ADD ZONING CODE STANDARDS; AMENDING THE KENMORE MUNICIPAL CODE TO ADD BUSINESS LICENSE REQUIREMENTS FOR MARIJUANA BUSINESSES; DENYING NONCONFORMING USE STATUS FOR MARIJUANA BUSINESSES; PROVIDING FOR INDEMNIFICATION OF CITY COUNCILMEMBERS AND CITY EMPLOYEES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on November 6, 2012, the voters of the State of Washington approved Initiative Measure No. 502 ("Initiative 502"), which became effective on December 6, 2012; and

WHEREAS, Initiative 502 authorizes adult recreational use of small amounts of marijuana, and authorizes and directs the Washington State Liquor Control Board ("LCB") to establish and administer rules for the licensing of marijuana producers (growers), marijuana processors, and marijuana retailers (collectively, "marijuana businesses") and for the operation of such marijuana businesses; and

WHEREAS, on August 29, 2013, while the LCB was considering such rules, the United States Department of Justice issued a memorandum to all United States Attorneys, entitled "Guidance Regarding Marijuana Enforcement" ("Department of Justice Memorandum"), in which the Department advised that as long as states adopting laws governing marijuana have "sufficiently robust" regulatory and enforcement systems" (on paper and in practice) to address the federal government's eight identified enforcement priorities (such as preventing the distribution of marijuana to minors, preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels, and preventing the diversion of marijuana from states where it is legal under state law in some form to other states, regardless of state law), then "enforcement of state laws by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity;" and

WHEREAS, on October 16, 2013, the LCB issued rules for marijuana businesses, which become effective on November 16, 2013; and

WHEREAS, the LCB currently is reviewing applications for, and issuing, marijuana business licenses under its adopted rules; and

WHEREAS, pursuant to WAC 314-55-020(11), approval of a marijuana license application by the LCB “shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements;” and

WHEREAS, the establishment of land use and zoning regulations is an exercise of the police power, and is specifically authorized by RCW 35.A.63.100; and

WHEREAS, the regulation of marijuana businesses is a valid exercise of city police powers under Article XI, Section 11 of the State Constitution; and

WHEREAS, on January 16, 2014, the Attorney General of Washington issued AGO 2014 No. 2, which concluded that Initiative 502 does not preempt local governments from licensing and regulating marijuana businesses; and

WHEREAS, in recognition of Initiative 502, the City Council desires to establish local regulations concerning marijuana businesses in order to ensure that only State-licensed marijuana businesses may locate within the City's jurisdiction and then only within designated zoning districts and meeting certain standards; and

WHEREAS, the City Council finds that the regulatory requirements established by this Ordinance are necessary for the preservation of the public safety, health, and welfare, and are consistent with goals, objectives and policies of the Kenmore Comprehensive Plan; and

WHEREAS, once local regulations concerning marijuana businesses are in place, the City Council desires to repeal the existing moratorium and existing interim regulations related to marijuana businesses; and

WHEREAS, the SEPA responsible official issued a determination of nonsignificance on July 11, 2014; and

WHEREAS, the City provided this Ordinance to the Washington State Department of Commerce as required by chapter 36.70A RCW; and

WHEREAS, on July 28, 2014, the City Council held a public hearing on this Ordinance, addressing the acceptance and filing of applications for, and the licensing, establishment, location, operation, maintenance and continuation of marijuana businesses, at which time City staff and members of the public had the opportunity to present testimony and other evidence in support of or against the amendments; now, therefore,

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

Section 1. Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of this Ordinance.

Section 2. Repealer. Ordinance Nos. 13-0362, 13-0370 and 14-0380, which establish a moratorium on marijuana businesses, are hereby repealed.

Section 3. Repealer. Ordinance Nos. 13-0369 and 14-0381, which establish an interim zoning regulation on marijuana businesses in residential zones, are hereby repealed.

Section 4. Definitions. Chapter 18.20 KMC shall be amended to add the following definitions:

- “Marijuana” means marijuana as defined in RCW 69.50.101.
- “Marijuana producer” means a marijuana producer as defined in RCW 69.50.101.
- “Marijuana processor” means a marijuana processor as defined in RCW 69.50.101.
- “Marijuana retailer” means a marijuana retailer as defined in RCW 69.50.101.
- “Marijuana business” means a marijuana producer, marijuana processor or marijuana retailer. Marijuana business does not include a medical marijuana collective garden as defined in Chapter 69.51A RCW.

Section 5. Prohibited Use. Sections 18.21.020, 18.21.040, 18.22.010, 18.23.020, 18.24.020, 18.25.020, 18.27.020, 18.28.020, and 18.28A.020 KMC shall be amended to add “marijuana business” to the “Prohibited” column.

Section 6. Permitted Use. Section 18.26.020 KMC shall be amended to add “marijuana business” to the “Permitted Use” column.

Section 7. Zoning Code Standards. A new section shall be added to Chapter 18.30 KMC as follows:

KMC 18.30.112 – Marijuana Businesses - Standards

Nothing in this Code or the ordinances of the City shall be construed as an authorization to violate any federal law. Affirmative terminology used in this section regarding permitting, licensing, authorization, and similar terms, shall not be construed as approval, support, endorsement, or encouragement of the activities addressed in this Code or City ordinances with regard to marijuana businesses. Such terms shall instead be construed only to describe circumstances under which there is conditional absence of local prohibition. The City does not intend to aid, abet, counsel, command, induce or procure any offense against the United States. The City also does not intend to conspire with any marijuana producer, processor, or retailer to commit any offense against the United States. The purpose of all regulations relating to marijuana businesses is to establish local laws which protect public safety, health and welfare to the greatest extent allowed by a Washington State law that cannot be reconciled with federal law. Nothing herein shall be construed to supersede federal law prohibiting the possession, use, manufacture, or sale of marijuana.

The following standards shall apply to marijuana businesses:

- A. No person or entity may apply for, receive or maintain a permit to locate a marijuana business in the City unless that person or entity holds a valid marijuana business license from the Washington State Liquor Control Board, verifying that the business complies with Chapter 314-55 WAC and all State laws relating to marijuana businesses. A marijuana business with an active administrative violation notice from the Washington State Liquor Control Board and/or a suspended license shall not be permitted to locate in the City until

the violation is resolved and/or any associated fines have been paid or suspensions concluded.

B. Marijuana businesses shall maintain a one-thousand foot (1000') separation from the perimeter of the grounds of any of the following entities:

- (1) Elementary or secondary school;
- (2) Playground;
- (3) Recreation center or facility;
- (4) Child care center;
- (5) Public park;
- (6) Public transit center;
- (7) Library;
- (8) Any game arcade (where admission is not restricted to persons age twenty-one or older);
- (9) Properties owned or under contract by a public entity such as a school district of the City where a future elementary or secondary school or public park is planned when such plans have been approved or adopted by the public entities' governing authority; or
- (10) Another marijuana business.

Definitions of (1) through (8) above, and the methodology for measuring the buffers outlined above, shall be as provided in Chapter 314-55 WAC.

C. Marijuana businesses shall not be located on a parcel any portion of which is within two hundred feet (200') of a residential zone (R1, R4, R6, R12, R18, R24, or R48).

D. Marijuana producers or marijuana processors shall not be located in a building that includes residential uses.

E. Outdoor marijuana production shall be prohibited.

F. Drive-through marijuana retail sales shall be prohibited.

G. Signage for marijuana businesses shall comply with Chapter 18.42 KMC and Chapter 314.55 WAC. In the event of a conflict between these regulations, the more restrictive regulation shall apply.

H. A marijuana business shall have a valid City business license.

I. By accepting a permit issued pursuant to this Section, the licensee, its owners, officers, operators, and employees, waives and releases the City, its officers, officials, employees, volunteers and agents from any and all liability for injuries, damages, suits or liabilities, including attorneys' fees that result from any arrest or prosecution of licensees' owners, officers, operators, employees, clients or customers for a violation of federal, State or local laws and regulations.

J. By accepting a permit issued pursuant to this Chapter, the licensee, its owners, officers, operators, and employees, indemnifies, defends and holds harmless the City, its officers, officials, employees, volunteers, agents, insurers and self-insurance pool, against any and all liability, claims, injuries, damages, losses or suits, including attorneys' fees, arising out of or in any manner connected with the marijuana business that is the subject of the license.

K. In addition to any other applicable remedy and/or penalty, any violation by a licensee, and persons associated with licensee as described in subsections I and J above, of this Code or City ordinances is declared to be a public nuisance per se, and may be abated by the City under the applicable provisions of this Code or State law including, but not limited to, Chapter 1.20 KMC.

Section 8. Business License Requirements. A new chapter 5.43 shall be added to Title 5 KMC as follows:

KMC 5.43 – Marijuana Businesses

5.43.010 Definitions

As used in this chapter, the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- A. "Applicant" means any person or business entity who is considered by the Washington State Liquor Control Board as a true party of interest in a marijuana license, as set forth in WAC 314-55-035.
- B. "Marijuana" means marijuana as defined in RCW 69.50.101.
- C. "Marijuana producer" means a marijuana producer as defined in RCW 69.50.101.
- D. "Marijuana processor" means a marijuana processor as defined in RCW 69.50.101.
- E. "Marijuana retailer" means a marijuana retailer as defined in RCW 69.50.101.
- F. "Marijuana business" means a marijuana producer, marijuana processor or marijuana retailer. Marijuana business does not include a medical marijuana collective garden as defined in Chapter 69.51A RCW.
- G. "Marijuana license" means a license issued by the Liquor Control Board for a marijuana producer, marijuana processor or marijuana retailer.
- H. "Marijuana business license" means a business license issued by the city pursuant to this chapter.
- I. "Person" has the same meaning as the definition of "person," firm," or "corporation" in KMC 5.105.020.
- J. "Liquor Control Board" means the Washington State Liquor Control Board.

5.43.020 License required.

A. It shall be unlawful for any person to conduct, manage or operate a marijuana business unless such person is the holder of a valid and subsisting license from the City to do so, obtained in the manner provided in this chapter.

B. It shall be unlawful for any employee or manager to knowingly work in or about, or to knowingly perform any service directly related to the operation of, an unlicensed marijuana business.

5.43.030 Liquor Control Board License—Condition Precedent.

The City shall process an application for a marijuana business license in accordance with the chapter after the applicant receives a marijuana business license from the Liquor Control Board. No license shall be issued to any person who does not hold a valid marijuana license from the Liquor Control Board.

5.43.040 Marijuana business license.

A. After receiving a license from the Liquor Control Board, an applicant may file a written application with the city clerk, on a form provided by the city clerk for that purpose, in the name of the person or entity that was issued the license. A failure to provide all information required on the form will constitute an incomplete application and the application will not be processed. The application form shall require the following information of the applicant:

1. The name of the applicant; business, mailing, and residential addresses; and business telephone number.
2. The type of applicant, as described in WAC 314-55-035.
3. Whether the applicant, or any partner, corporate officer, or director of the applicant, holds any other licenses under this chapter from the City or another city, county or state, and if so, the names and addresses of each other licensed business.
4. A summary of the business history of the applicant in owning or operating marijuana businesses, providing names, addresses and dates of operation for such businesses, and whether any Liquor Control Board license or other business license has been revoked or suspended, and the reason therefor.
5. A copy of the completed personal/criminal history form and fingerprints submitted to the Liquor Control Board for the Liquor Control Board license application, together with the results of the Liquor Control Board's criminal history check on the applicant.
6. A copy of the operating plan submitted to the Liquor Control Board in connection with the license application, and any amendments thereto, and the license issued by the Liquor Control Board.
7. Authorization for the City, its officers, employees and agents, to seek information to confirm any information and documents in the application.
8. The location and "doing-business-as" name of the marijuana business, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property, if not the applicant.
9. Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face.

B. An application shall be deemed complete upon the applicant's submittal of all information and documents described above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The

city clerk may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this chapter.

C. A nonrefundable application fee (see Section 5.43.050) must be paid at the time of filing an application.

D. All applications shall be signed by the applicant and notarized or certified as true under penalty of perjury.

E. If any person or entity acquires, subsequent to the issuance of a marijuana business license, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the city clerk, no later than 21 days following such acquisition. The notice required shall include the information required for the original marijuana business license application.

F. The marijuana business license, if granted, shall state on its face the name of the person or entity, or persons or entities, to whom it is issued, the expiration date, the "doing-business-as" name, and the address of the licensed marijuana business. The permit shall be posted in a conspicuous place at or near the entrance to the marijuana business so that it can be easily read at any time the business is open.

G. No person granted a marijuana business license pursuant to this chapter shall operate the marijuana business under a name not specified on the license, nor shall any person operate a marijuana business under any designation or at any location not specified on the license.

H. Upon receipt of the complete application and fee, the clerk shall provide copies to the appropriate city departments for their investigation and review to determine compliance of the proposed marijuana business with the laws and regulations which each department administers. Each department shall, within twenty (20) days of the date of such application, inspect the application and premises and shall make a written report to the city clerk regarding compliance of such application and premises with the laws administered by each department. A department shall recommend denial of a license under this subsection if it finds that the proposed marijuana business is not in conformance with the requirements of this chapter or other law in effect in the City. A recommendation for denial shall cite the specific reason therefor, including reference to applicable laws. The city clerk shall not issue a marijuana business license unless and until each department reports that the application and premises comply with the relevant laws, unless the 20-day period has lapsed. If the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any marijuana business license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application.

I. A marijuana business license shall be issued by the city clerk within thirty (30) days of the filing of a complete license application and the application fee, unless the city clerk determines that the applicant has failed to meet any of the requirements of this chapter, that the applicant has failed to provide any information required under this subsection, or that the

applicant has made a false, misleading or fraudulent statement of material fact on the application. The city clerk shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the city clerk finds that the applicant has failed to meet any of the requirements for issuance of a marijuana business license, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the city clerk fails to issue or deny the license within thirty (30) days of the date of filing of a complete application and the application fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought until notification by the city clerk that the license has been denied, but in no event may the city clerk extend the application review time for more than an additional twenty (20) days.

5.43.050 Marijuana business license fee.

Any person desiring to obtain a marijuana business license shall pay, at the time of application, a license fee pursuant to the City's adopted fee schedule.

5.43.060 Effect of license denial.

If the City denies a marijuana business license, the City shall not issue a marijuana business license to that applicant or the applicant's successor on the marijuana license, for a period of one year from the date of such denial.

5.43.070 Appeal.

A. Any person aggrieved by the action of the city clerk in refusing to issue or renew any license issued under this chapter shall have the right to appeal such action to the hearing examiner, by filing a notice of appeal with the city clerk within twenty-one (21) days of notice of the refusal to issue or renew. The decision of the city clerk shall be stayed pending the final outcome of any such timely appeal. The appeal shall be processed under KMC 5.05.150 and Chapter 19.30 KMC.

B. Any person aggrieved by the decision of the hearing examiner may appeal to the superior court for a writ of certiorari, prohibition or mandamus. The decision of the hearing examiner shall be stayed pending the final outcome of any such timely appeal.

5.43.080 License term, assignment and renewals.

A. The marijuana business license is valid for one year and shall be renewed annually. The city clerk shall have the authority to adjust the expiration date and to prorate the license fee of the license in order to coincide with marijuana license expiration dates. Marijuana business licenses issued under this chapter shall not be assignable.

B. Application for renewal of marijuana business licenses issued hereunder shall be made to the city clerk no later than thirty (30) days prior to the expiration of marijuana business licenses. The renewal license shall be issued in the same manner and on payment of the same fees as for an original application under this chapter. There shall be assessed and collected by the city clerk an additional charge, computed as a percentage of the marijuana business license fee, on applications not made on or before said date, as follows:

Days Past Due	Percent of License Fee
7 – 30	25%
31 – 60	50%
61 and over	75%

C. The city clerk shall renew a license upon application if it complies with all provisions of this chapter, as now enacted or as the same may hereafter be amended; provided, that the city clerk may deny a renewal where the city clerk is aware of facts that would disqualify the applicant from being issued a marijuana business license.

5.43.090 License suspension and revocation.

A. The city clerk may, upon the recommendation of the chief of police or designee, and as provided in subsection (B) of this section, suspend or revoke any marijuana business license issued under the provisions of this chapter:

1. Where the license was procured by fraud or false representation of fact;
2. For violation of, or failure to comply with, this chapter, this Code, or similar local or State law by the licensee, or by any of the licensee's servants, agents or employees, when the licensee knew or should have known of the violations committed by such servants, agents or employees;
3. For conviction of the licensee of any crime or offense involving transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises, or the conviction of any of licensee's servants, agents or employees of any crime or offense involving transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises in which the marijuana business is conducted when the licensee knew or should have known of the violations committed by such servants, agents or employees.

B. A license procured by fraud or misrepresentation shall be revoked permanently for the licensee and licensee's successors on the marijuana license. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of thirty (30) days upon the first such violation, ninety (90) days upon the second violation within a 24-month period, and revoked for third and subsequent violations within a 24-month period, not including periods of suspension.

C. The city clerk shall provide at least ten (10) days' prior written notice to the licensee of the decision to suspend or revoke the license. Such notice shall inform the licensee of the right to appeal the decision to the hearing examiner or other designated hearing body and shall state the effective date of such revocation or suspension and the grounds for revocation or suspension. Such appeals shall be processed under KMC 5.05.150 and Chapter 19.30 KMC. The decision of the city clerk shall be stayed during the pendency of any appeal except as provided in subsection (D) of this section.

D. Where the city building official or fire marshal, or their designees or the King County health department, find that any condition exists upon the premises of a marijuana business

which constitutes a threat of immediate serious injury or damage to persons or property, the official may immediately suspend any license issued under this chapter pending a hearing in accordance with subsection (C) of this section. The official shall issue a notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to persons or property, and informing the licensee of the right to appeal the suspension to the hearing examiner or other designated hearing body under the same appeal provisions set forth in subsection (C) of this section; provided that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal.

5.43.100 Standards of conduct for marijuana businesses.

Marijuana businesses shall conform to the rules of Chapter 314-55 WAC, applicable State laws relating to marijuana businesses, and Title 18 KMC.

5.43.110 Hours of operation for marijuana retailers.

A marijuana retailer may be open for business only between the hours of 8 a.m. and 10 p.m.

5.43.120 Insurance.

The licensee shall maintain the insurance coverage of WAC 314-55-082 during the term of the marijuana business license, and shall name the City as an additional insured on the insurance policies. The policies shall be primary to any City insurance policies and the licensee's insurance policies shall state this requirement.

Section 9. No Nonconforming Uses. No use that constitutes or purports to be a marijuana business as that term is defined in this Ordinance, shall be deemed to have been a legally established use under the provisions of the Kenmore Municipal Code and that use shall not be entitled to claim legal nonconforming status.

Section 10. Indemnification.

- A. The City shall provide to a City Councilmember or City employee, subject to the conditions and requirements of this section and notwithstanding the fact that such City Councilmember or City employee may have concluded service or employment with the City, such legal representation and indemnification as may be reasonably necessary to defend a claim or charge brought against such City Councilmember or City employee by the Federal Government, resulting from the passage, implementation, administration or enforcement of this Ordinance.
- B. The legal representation shall be provided by the City Attorney unless any provision of any applicable policy of insurance provides otherwise, or the City Manager, upon consultation with the City Attorney, appoints alternate legal counsel.
- C. As soon as practicable after receiving written notice of the claim or charge, the City Councilmember or City employee shall give the City Manager written notice thereof.

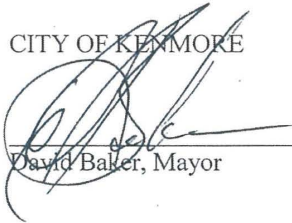
D. If the claim or charge is civil in nature, the provisions of KMC 2.50.060, 2.50.070, 2.50.080, 2.50.100 and 2.50.120 shall apply.

Section 11. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance, or the application of the provision to other persons or circumstances, is not affected.

Section 12. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 28th DAY OF JULY, 2014.

CITY OF KENMORE



David Baker, Mayor

ATTEST/AUTHENTICATED:



Patty Saffin, City Clerk

Approved as to form:



Rod P. Kaseguma, City Attorney

Filed with the City Clerk: July 18, 2014
Passed by the City Council: July 28, 2014
Date of Publication: August 14, 2014
Effective Date: August 19, 2014
Ordinance No.: 14-0384

Attachment 4

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5052

Chapter 70, Laws of 2015
(partial veto)

64th Legislature
2015 Regular Session

MEDICAL MARIJUANA--REGULATION

EFFECTIVE DATE: 7/24/2015 - Except for sections 12, 19, 20, 23 through 26, 31, 35, 40, and 49, which become effective 7/1/2016; and sections 21, 22, 32, and 33, which become effective 4/24/2015.

Passed by the Senate April 14, 2015
Yeas 41 Nays 8

BRAD OWEN
President of the Senate

Passed by the House April 10, 2015
Yeas 60 Nays 36

FRANK CHOPP
Speaker of the House of Representatives

Approved April 24, 2015 2:53 PM, with the exception of Sections 36, 42, 43, 44, 45, 46, and 52 which are vetoed.

JAY INSLEE
Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5052** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN
Secretary

FILED
April 25, 2015

Secretary of State
State of Washington

SECOND SUBSTITUTE SENATE BILL 5052

AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington 64th Legislature 2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators Rivers, Hatfield, and Conway)

READ FIRST TIME 02/10/15.

1 AN ACT Relating to establishing the cannabis patient protection
2 act; amending RCW 66.08.012, 69.50.101, 69.50.325, 69.50.331,
3 69.50.342, 69.50.345, 69.50.354, 69.50.357, 69.50.360, 69.50.4013,
4 69.51A.005, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.043,
5 69.51A.045, 69.51A.055, 69.51A.060, 69.51A.085, 69.51A.100,
6 43.70.320, 69.50.203, 69.50.204, and 9.94A.518; adding new sections
7 to chapter 69.50 RCW; adding new sections to chapter 69.51A RCW;
8 adding a new section to chapter 42.56 RCW; adding a new section to
9 chapter 82.04 RCW; creating new sections; repealing RCW 69.51A.020,
10 69.51A.025, 69.51A.047, 69.51A.070, 69.51A.090, 69.51A.140,
11 69.51A.200, and 69.51A.085; prescribing penalties; providing an
12 effective date; providing a contingent effective date; and declaring
13 an emergency.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

15 NEW SECTION. **Sec. 1.** This act may be known and cited as the
16 cannabis patient protection act.

17 NEW SECTION. **Sec. 2.** The legislature finds that since voters
18 approved Initiative Measure No. 692 in 1998, it has been the public
19 policy of the state to permit the medical use of marijuana. Between
20 1998 and the present day, there have been multiple legislative

p. 1

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1 attempts to clarify what is meant by the medical use of marijuana and
2 to ensure qualifying patients have a safe, consistent, and adequate
3 source of marijuana for their medical needs.

4 The legislature further finds that qualifying patients are people
5 with serious medical conditions and have been responsible for finding
6 their own source of marijuana for their own personal medical use.
7 Either by growing it themselves, designating someone to grow for
8 them, or participating in collective gardens, patients have developed
9 methods of access in spite of continued federal opposition to the
10 medical use of marijuana. In a time when access itself was an issue
11 and no safe, consistent source of marijuana was available, this
12 unregulated system was permitted by the state to ensure some, albeit
13 limited, access to marijuana for medical use. Also permitted were
14 personal possession limits of fifteen plants and twenty-four ounces
15 of useable marijuana, which was deemed to be the amount of marijuana
16 needed for a sixty-day supply. In a time when supply was not
17 consistent, this amount of marijuana was necessary to ensure patients
18 would be able to address their immediate medical needs.

19 The legislature further finds that while possession amounts are
20 provided in statute, these do not amount to protection from arrest
21 and prosecution for patients. In fact, patients in compliance with
22 state law are not provided arrest protection. They may be arrested
23 and their only remedy is to assert an affirmative defense at trial
24 that they are in compliance with the law and have a medical need. Too
25 many patients using marijuana for medical purposes today do not know
26 this; many falsely believe they cannot be arrested so long as their
27 health care provider has authorized them for the medical use of
28 marijuana.

29 The legislature further finds that in 2012 voters passed
30 Initiative Measure No. 502 which permitted the recreational use of
31 marijuana. For the first time in our nation's history, marijuana
32 would be regulated, taxed, and sold for recreational consumption.
33 Initiative Measure No. 502 provides for strict regulation on the
34 production, processing, and distribution of marijuana. Under
35 Initiative Measure No. 502, marijuana is trackable from seed to sale
36 and may only be sold or grown under license. Marijuana must be tested
37 for impurities and purchasers of marijuana must be informed of the
38 THC level in the marijuana. Since its passage, two hundred fifty
39 producer/processor licenses and sixty-three retail licenses have been
40 issued, covering the majority of the state. With the current product

1 canopy exceeding 2.9 million square feet, and retailers in place, the
 2 state now has a system of safe, consistent, and adequate access to
 3 marijuana; the marketplace is not the same marketplace envisioned by
 4 the voters in 1998. While medical needs remain, the state is in the
 5 untenable position of having a recreational product that is tested
 6 and subject to production standards that ensure safe access for
 7 recreational users. No such standards exist for medical users and,
 8 consequently, the very people originally meant to be helped through
 9 the medical use of marijuana do not know if their product has been
 10 tested for molds, do not know where their marijuana has been grown,
 11 have no certainty in the level of THC or CBD in their products, and
 12 have no assurances that their products have been handled through
 13 quality assurance measures. It is not the public policy of the state
 14 to allow qualifying patients to only have access to products that may
 15 be endangering their health.

16 The legislature, therefore, intends to adopt a comprehensive act
 17 that uses the regulations in place for the recreational market to
 18 provide regulation for the medical use of marijuana. It intends to
 19 ensure that patients retain their ability to grow their own marijuana
 20 for their own medical use and it intends to ensure that patients have
 21 the ability to possess more marijuana-infused products, useable
 22 marijuana, and marijuana concentrates than what is available to a
 23 nonmedical user. It further intends that medical specific regulations
 24 be adopted as needed and under consultation of the departments of
 25 health and agriculture so that safe handling practices will be
 26 adopted and so that testing standards for medical products meet or
 27 exceed those standards in use in the recreational market.

28 The legislature further intends that the costs associated with
 29 implementing and administering the medical marijuana authorization
 30 database shall be financed from the health professions account and
 31 that these funds shall be restored to the health professions account
 32 through future appropriations using funds derived from the dedicated
 33 marijuana account.

34 **Sec. 3.** RCW 66.08.012 and 2012 c 117 s 265 are each amended to
 35 read as follows:

36 There shall be a board, known as the "Washington state liquor
 37 (~~control~~) and cannabis board," consisting of three members, to be
 38 appointed by the governor, with the consent of the senate, who shall
 39 each be paid an annual salary to be fixed by the governor in

1 accordance with the provisions of RCW 43.03.040. The governor may, in
2 his or her discretion, appoint one of the members as chair of the
3 board, and a majority of the members shall constitute a quorum of the
4 board.

5 **Sec. 4.** RCW 69.50.101 and 2014 c 192 s 1 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, definitions of
8 terms shall be as indicated where used in this chapter:

9 (a) "Administer" means to apply a controlled substance, whether
10 by injection, inhalation, ingestion, or any other means, directly to
11 the body of a patient or research subject by:

12 (1) a practitioner authorized to prescribe (or, by the
13 practitioner's authorized agent); or

14 (2) the patient or research subject at the direction and in the
15 presence of the practitioner.

16 (b) "Agent" means an authorized person who acts on behalf of or
17 at the direction of a manufacturer, distributor, or dispenser. It
18 does not include a common or contract carrier, public
19 warehouseperson, or employee of the carrier or warehouseperson.

20 (c) "Commission" means the pharmacy quality assurance commission.

21 (d) "Controlled substance" means a drug, substance, or immediate
22 precursor included in Schedules I through V as set forth in federal
23 or state laws, or federal or commission rules.

24 (e)(1) "Controlled substance analog" means a substance the
25 chemical structure of which is substantially similar to the chemical
26 structure of a controlled substance in Schedule I or II and:

27 (i) that has a stimulant, depressant, or hallucinogenic effect on
28 the central nervous system substantially similar to the stimulant,
29 depressant, or hallucinogenic effect on the central nervous system of
30 a controlled substance included in Schedule I or II; or

31 (ii) with respect to a particular individual, that the individual
32 represents or intends to have a stimulant, depressant, or
33 hallucinogenic effect on the central nervous system substantially
34 similar to the stimulant, depressant, or hallucinogenic effect on the
35 central nervous system of a controlled substance included in Schedule
36 I or II.

37 (2) The term does not include:

38 (i) a controlled substance;

- 1 (ii) a substance for which there is an approved new drug
2 application;
- 3 (iii) a substance with respect to which an exemption is in effect
4 for investigational use by a particular person under Section 505 of
5 the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the
6 extent conduct with respect to the substance is pursuant to the
7 exemption; or
- 8 (iv) any substance to the extent not intended for human
9 consumption before an exemption takes effect with respect to the
10 substance.
- 11 (f) "Deliver" or "delivery," means the actual or constructive
12 transfer from one person to another of a substance, whether or not
13 there is an agency relationship.
- 14 (g) "Department" means the department of health.
- 15 (h) "Dispense" means the interpretation of a prescription or
16 order for a controlled substance and, pursuant to that prescription
17 or order, the proper selection, measuring, compounding, labeling, or
18 packaging necessary to prepare that prescription or order for
19 delivery.
- 20 (i) "Dispenser" means a practitioner who dispenses.
- 21 (j) "Distribute" means to deliver other than by administering or
22 dispensing a controlled substance.
- 23 (k) "Distributor" means a person who distributes.
- 24 (l) "Drug" means (1) a controlled substance recognized as a drug
25 in the official United States pharmacopoeia/national formulary or the
26 official homeopathic pharmacopoeia of the United States, or any
27 supplement to them; (2) controlled substances intended for use in the
28 diagnosis, cure, mitigation, treatment, or prevention of disease in
29 individuals or animals; (3) controlled substances (other than food)
30 intended to affect the structure or any function of the body of
31 individuals or animals; and (4) controlled substances intended for
32 use as a component of any article specified in (1), (2), or (3) of
33 this subsection. The term does not include devices or their
34 components, parts, or accessories.
- 35 (m) "Drug enforcement administration" means the drug enforcement
36 administration in the United States Department of Justice, or its
37 successor agency.
- 38 (n) "Electronic communication of prescription information" means
39 the transmission of a prescription or refill authorization for a drug
40 of a practitioner using computer systems. The term does not include a

1 prescription or refill authorization verbally transmitted by
2 telephone nor a facsimile manually signed by the practitioner.

3 (o) "Immediate precursor" means a substance:

4 (1) that the commission has found to be and by rule designates as
5 being the principal compound commonly used, or produced primarily for
6 use, in the manufacture of a controlled substance;

7 (2) that is an immediate chemical intermediary used or likely to
8 be used in the manufacture of a controlled substance; and

9 (3) the control of which is necessary to prevent, curtail, or
10 limit the manufacture of the controlled substance.

11 (p) "Isomer" means an optical isomer, but in subsection (z)(5) of
12 this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4),
13 the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and
14 (42), and 69.50.210(c) the term includes any positional isomer; and
15 in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term
16 includes any positional or geometric isomer.

17 (q) "Lot" means a definite quantity of marijuana, marijuana
18 concentrates, useable marijuana, or marijuana-infused product
19 identified by a lot number, every portion or package of which is
20 uniform within recognized tolerances for the factors that appear in
21 the labeling.

22 (r) "Lot number" shall identify the licensee by business or trade
23 name and Washington state unified business identifier number, and the
24 date of harvest or processing for each lot of marijuana, marijuana
25 concentrates, useable marijuana, or marijuana-infused product.

26 (s) "Manufacture" means the production, preparation, propagation,
27 compounding, conversion, or processing of a controlled substance,
28 either directly or indirectly or by extraction from substances of
29 natural origin, or independently by means of chemical synthesis, or
30 by a combination of extraction and chemical synthesis, and includes
31 any packaging or repackaging of the substance or labeling or
32 relabeling of its container. The term does not include the
33 preparation, compounding, packaging, repackaging, labeling, or
34 relabeling of a controlled substance:

35 (1) by a practitioner as an incident to the practitioner's
36 administering or dispensing of a controlled substance in the course
37 of the practitioner's professional practice; or

38 (2) by a practitioner, or by the practitioner's authorized agent
39 under the practitioner's supervision, for the purpose of, or as an

1 incident to, research, teaching, or chemical analysis and not for
2 sale.

3 (t) "Marijuana" or "marihuana" means all parts of the plant
4 *Cannabis*, whether growing or not, with a THC concentration greater
5 than 0.3 percent on a dry weight basis; the seeds thereof; the resin
6 extracted from any part of the plant; and every compound,
7 manufacture, salt, derivative, mixture, or preparation of the plant,
8 its seeds or resin. The term does not include the mature stalks of
9 the plant, fiber produced from the stalks, oil or cake made from the
10 seeds of the plant, any other compound, manufacture, salt,
11 derivative, mixture, or preparation of the mature stalks (except the
12 resin extracted therefrom), fiber, oil, or cake, or the sterilized
13 seed of the plant which is incapable of germination.

14 (u) "Marijuana concentrates" means products consisting wholly or
15 in part of the resin extracted from any part of the plant *Cannabis*
16 and having a THC concentration greater than sixty percent.

17 (v) "Marijuana processor" means a person licensed by the state
18 liquor ((~~control~~)) and cannabis board to process marijuana into
19 marijuana concentrates, useable marijuana, and marijuana-infused
20 products, package and label marijuana concentrates, useable
21 marijuana, and marijuana-infused products for sale in retail outlets,
22 and sell marijuana concentrates, useable marijuana, and marijuana-
23 infused products at wholesale to marijuana retailers.

24 (w) "Marijuana producer" means a person licensed by the state
25 liquor ((~~control~~)) and cannabis board to produce and sell marijuana
26 at wholesale to marijuana processors and other marijuana producers.

27 (x) "Marijuana-infused products" means products that contain
28 marijuana or marijuana extracts, are intended for human use, and have
29 a THC concentration greater than 0.3 percent and no greater than
30 sixty percent. The term "marijuana-infused products" does not include
31 either useable marijuana or marijuana concentrates.

32 (y) "Marijuana retailer" means a person licensed by the state
33 liquor ((~~control~~)) and cannabis board to sell marijuana concentrates,
34 useable marijuana, and marijuana-infused products in a retail outlet.

35 (z) "Narcotic drug" means any of the following, whether produced
36 directly or indirectly by extraction from substances of vegetable
37 origin, or independently by means of chemical synthesis, or by a
38 combination of extraction and chemical synthesis:

39 (1) Opium, opium derivative, and any derivative of opium or opium
40 derivative, including their salts, isomers, and salts of isomers,

1 whenever the existence of the salts, isomers, and salts of isomers is
2 possible within the specific chemical designation. The term does not
3 include the isoquinoline alkaloids of opium.

4 (2) Synthetic opiate and any derivative of synthetic opiate,
5 including their isomers, esters, ethers, salts, and salts of isomers,
6 esters, and ethers, whenever the existence of the isomers, esters,
7 ethers, and salts is possible within the specific chemical
8 designation.

9 (3) Poppy straw and concentrate of poppy straw.

10 (4) Coca leaves, except coca leaves and extracts of coca leaves
11 from which cocaine, ecgonine, and derivatives or ecgonine or their
12 salts have been removed.

13 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.

14 (6) Cocaine base.

15 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
16 thereof.

17 (8) Any compound, mixture, or preparation containing any quantity
18 of any substance referred to in subparagraphs (1) through (7).

19 (aa) "Opiate" means any substance having an addiction-forming or
20 addiction-sustaining liability similar to morphine or being capable
21 of conversion into a drug having addiction-forming or addiction-
22 sustaining liability. The term includes opium, substances derived
23 from opium (opium derivatives), and synthetic opiates. The term does
24 not include, unless specifically designated as controlled under RCW
25 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
26 and its salts (dextromethorphan). The term includes the racemic and
27 levorotatory forms of dextromethorphan.

28 (bb) "Opium poppy" means the plant of the species *Papaver*
29 *somniferum* L., except its seeds.

30 (cc) "Person" means individual, corporation, business trust,
31 estate, trust, partnership, association, joint venture, government,
32 governmental subdivision or agency, or any other legal or commercial
33 entity.

34 (dd) "Poppy straw" means all parts, except the seeds, of the
35 opium poppy, after mowing.

36 (ee) "Practitioner" means:

37 (1) A physician under chapter 18.71 RCW; a physician assistant
38 under chapter 18.71A RCW; an osteopathic physician and surgeon under
39 chapter 18.57 RCW; an osteopathic physician assistant under chapter
40 18.57A RCW who is licensed under RCW 18.57A.020 subject to any

1 limitations in RCW 18.57A.040; an optometrist licensed under chapter
 2 18.53 RCW who is certified by the optometry board under RCW 18.53.010
 3 subject to any limitations in RCW 18.53.010; a dentist under chapter
 4 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
 5 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
 6 registered nurse practitioner, or licensed practical nurse under
 7 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
 8 who is licensed under RCW 18.36A.030 subject to any limitations in
 9 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
 10 investigator under this chapter, licensed, registered or otherwise
 11 permitted insofar as is consistent with those licensing laws to
 12 distribute, dispense, conduct research with respect to or administer
 13 a controlled substance in the course of their professional practice
 14 or research in this state.

15 (2) A pharmacy, hospital or other institution licensed,
 16 registered, or otherwise permitted to distribute, dispense, conduct
 17 research with respect to or to administer a controlled substance in
 18 the course of professional practice or research in this state.

19 (3) A physician licensed to practice medicine and surgery, a
 20 physician licensed to practice osteopathic medicine and surgery, a
 21 dentist licensed to practice dentistry, a podiatric physician and
 22 surgeon licensed to practice podiatric medicine and surgery, a
 23 licensed physician assistant or a licensed osteopathic physician
 24 assistant specifically approved to prescribe controlled substances by
 25 his or her state's medical quality assurance commission or equivalent
 26 and his or her supervising physician, an advanced registered nurse
 27 practitioner licensed to prescribe controlled substances, or a
 28 veterinarian licensed to practice veterinary medicine in any state of
 29 the United States.

30 (ff) "Prescription" means an order for controlled substances
 31 issued by a practitioner duly authorized by law or rule in the state
 32 of Washington to prescribe controlled substances within the scope of
 33 his or her professional practice for a legitimate medical purpose.

34 (gg) "Production" includes the manufacturing, planting,
 35 cultivating, growing, or harvesting of a controlled substance.

36 (hh) "Retail outlet" means a location licensed by the state
 37 liquor ~~((control))~~ and cannabis board for the retail sale of
 38 marijuana concentrates, useable marijuana, and marijuana-infused
 39 products.

1 (ii) "Secretary" means the secretary of health or the secretary's
2 designee.

3 (jj) "State," unless the context otherwise requires, means a
4 state of the United States, the District of Columbia, the
5 Commonwealth of Puerto Rico, or a territory or insular possession
6 subject to the jurisdiction of the United States.

7 (kk) "THC concentration" means percent of delta-9
8 tetrahydrocannabinol content per dry weight of any part of the plant
9 *Cannabis*, or per volume or weight of marijuana product, or the
10 combined percent of delta-9 tetrahydrocannabinol and
11 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
12 regardless of moisture content.

13 (ll) "Ultimate user" means an individual who lawfully possesses a
14 controlled substance for the individual's own use or for the use of a
15 member of the individual's household or for administering to an
16 animal owned by the individual or by a member of the individual's
17 household.

18 (mm) "Useable marijuana" means dried marijuana flowers. The term
19 "useable marijuana" does not include either marijuana-infused
20 products or marijuana concentrates.

21 (nn) "Designated provider" has the meaning provided in RCW
22 69.51A.010.

23 (oo) "Qualifying patient" has the meaning provided in RCW
24 69.51A.010.

25 (pp) "CBD concentration" has the meaning provided in RCW
26 69.51A.010.

27 (qq) "Plant" has the meaning provided in RCW 69.51A.010.

28 (rr) "Recognition card" has the meaning provided in RCW
29 69.51A.010.

30 **Sec. 5.** RCW 69.50.325 and 2014 c 192 s 2 are each amended to
31 read as follows:

32 (1) There shall be a marijuana producer's license to produce
33 marijuana for sale at wholesale to marijuana processors and other
34 marijuana producers, regulated by the state liquor ~~((control))~~ and
35 cannabis board and subject to annual renewal. The production,
36 possession, delivery, distribution, and sale of marijuana in
37 accordance with the provisions of this chapter ~~((3, Laws of 2013))~~
38 and the rules adopted to implement and enforce it, by a validly
39 licensed marijuana producer, shall not be a criminal or civil offense

1 under Washington state law. Every marijuana producer's license shall
 2 be issued in the name of the applicant, shall specify the location at
 3 which the marijuana producer intends to operate, which must be within
 4 the state of Washington, and the holder thereof shall not allow any
 5 other person to use the license. The application fee for a marijuana
 6 producer's license shall be two hundred fifty dollars. The annual fee
 7 for issuance and renewal of a marijuana producer's license shall be
 8 one thousand dollars. A separate license shall be required for each
 9 location at which a marijuana producer intends to produce marijuana.

10 (2) There shall be a marijuana processor's license to process,
 11 package, and label marijuana concentrates, useable marijuana, and
 12 marijuana-infused products for sale at wholesale to marijuana
 13 processors and marijuana retailers, regulated by the state liquor
 14 ~~((control))~~ and cannabis board and subject to annual renewal. The
 15 processing, packaging, possession, delivery, distribution, and sale
 16 of marijuana, useable marijuana, marijuana-infused products, and
 17 marijuana concentrates in accordance with the provisions of this
 18 chapter ~~((3, Laws of 2013))~~ and chapter 69.51A RCW and the rules
 19 adopted to implement and enforce ~~((it))~~ these chapters, by a validly
 20 licensed marijuana processor, shall not be a criminal or civil
 21 offense under Washington state law. Every marijuana processor's
 22 license shall be issued in the name of the applicant, shall specify
 23 the location at which the licensee intends to operate, which must be
 24 within the state of Washington, and the holder thereof shall not
 25 allow any other person to use the license. The application fee for a
 26 marijuana processor's license shall be two hundred fifty dollars. The
 27 annual fee for issuance and renewal of a marijuana processor's
 28 license shall be one thousand dollars. A separate license shall be
 29 required for each location at which a marijuana processor intends to
 30 process marijuana.

31 (3) There shall be a marijuana retailer's license to sell
 32 marijuana concentrates, useable marijuana, and marijuana-infused
 33 products at retail in retail outlets, regulated by the state liquor
 34 ~~((control))~~ and cannabis board and subject to annual renewal. The
 35 possession, delivery, distribution, and sale of marijuana
 36 concentrates, useable marijuana, and marijuana-infused products in
 37 accordance with the provisions of this chapter ~~((3, Laws of 2013))~~
 38 and the rules adopted to implement and enforce it, by a validly
 39 licensed marijuana retailer, shall not be a criminal or civil offense
 40 under Washington state law. Every marijuana retailer's license shall

1 be issued in the name of the applicant, shall specify the location of
 2 the retail outlet the licensee intends to operate, which must be
 3 within the state of Washington, and the holder thereof shall not
 4 allow any other person to use the license. The application fee for a
 5 marijuana retailer's license shall be two hundred fifty dollars. The
 6 annual fee for issuance and renewal of a marijuana retailer's license
 7 shall be one thousand dollars. A separate license shall be required
 8 for each location at which a marijuana retailer intends to sell
 9 marijuana concentrates, useable marijuana, and marijuana-infused
 10 products.

11 **Sec. 6.** RCW 69.50.331 and 2013 c 3 s 6 are each amended to read
 12 as follows:

13 (1) For the purpose of considering any application for a license
 14 to produce, process, or sell marijuana, or for the renewal of a
 15 license to produce, process, or sell marijuana, the state liquor
 16 ~~((control))~~ and cannabis board must conduct a comprehensive, fair,
 17 and impartial evaluation of the applications timely received.

18 (a) The state liquor and cannabis board must develop a
 19 competitive, merit-based application process that includes, at a
 20 minimum, the opportunity for an applicant to demonstrate experience
 21 and qualifications in the marijuana industry. The state liquor and
 22 cannabis board shall give preference between competing applications
 23 in the licensing process to applicants that have the following
 24 experience and qualifications, in the following order of priority:

25 (i) First priority is given to applicants who:

26 (A) Applied to the state liquor and cannabis board for a
 27 marijuana retailer license prior to July 1, 2014;

28 (B) Operated or were employed by a collective garden before
 29 January 1, 2013;

30 (C) Have maintained a state business license and a municipal
 31 business license, as applicable in the relevant jurisdiction; and

32 (D) Have had a history of paying all applicable state taxes and
 33 fees;

34 (ii) Second priority shall be given to applicants who:

35 (A) Operated or were employed by a collective garden before
 36 January 1, 2013;

37 (B) Have maintained a state business license and a municipal
 38 business license, as applicable in the relevant jurisdiction; and

1 (C) Have had a history of paying all applicable state taxes and
 2 fees; and

3 (iii) Third priority shall be given to all other applicants who
 4 do not have the experience and qualifications identified in (a)(i)
 5 and (ii) of this subsection.

6 (b) The state liquor and cannabis board may cause an inspection
 7 of the premises to be made, and may inquire into all matters in
 8 connection with the construction and operation of the premises. For
 9 the purpose of reviewing any application for a license and for
 10 considering the denial, suspension, revocation, or renewal or denial
 11 thereof, of any license, the state liquor (~~((control))~~) and cannabis
 12 board may consider any prior criminal conduct of the applicant
 13 including an administrative violation history record with the state
 14 liquor (~~((control))~~) and cannabis board and a criminal history record
 15 information check. The state liquor (~~((control))~~) and cannabis board
 16 may submit the criminal history record information check to the
 17 Washington state patrol and to the identification division of the
 18 federal bureau of investigation in order that these agencies may
 19 search their records for prior arrests and convictions of the
 20 individual or individuals who filled out the forms. The state liquor
 21 (~~((control))~~) and cannabis board shall require fingerprinting of any
 22 applicant whose criminal history record information check is
 23 submitted to the federal bureau of investigation. The provisions of
 24 RCW 9.95.240 and of chapter 9.96A RCW shall not apply to these cases.
 25 Subject to the provisions of this section, the state liquor
 26 (~~((control))~~) and cannabis board may, in its discretion, grant or deny
 27 the renewal or license applied for. Denial may be based on, without
 28 limitation, the existence of chronic illegal activity documented in
 29 objections submitted pursuant to subsections (7)(c) and (9) of this
 30 section. Authority to approve an uncontested or unopposed license may
 31 be granted by the state liquor (~~((control))~~) and cannabis board to any
 32 staff member the board designates in writing. Conditions for granting
 33 this authority shall be adopted by rule.

34 (c) No license of any kind may be issued to:

35 ~~((+a+))~~ (i) A person under the age of twenty-one years;

36 ~~((+b+))~~ (ii) A person doing business as a sole proprietor who has
 37 not lawfully resided in the state for at least three months prior to
 38 applying to receive a license;

39 ~~((+c+))~~ (iii) A partnership, employee cooperative, association,
 40 nonprofit corporation, or corporation unless formed under the laws of

1 this state, and unless all of the members thereof are qualified to
 2 obtain a license as provided in this section; or

3 ~~((d))~~ (iv) A person whose place of business is conducted by a
 4 manager or agent, unless the manager or agent possesses the same
 5 qualifications required of the licensee.

6 (2)(a) The state liquor ~~((control))~~ and cannabis board may, in
 7 its discretion, subject to the provisions of RCW 69.50.334, suspend
 8 or cancel any license; and all protections of the licensee from
 9 criminal or civil sanctions under state law for producing,
 10 processing, or selling marijuana, useable marijuana, or marijuana-
 11 infused products thereunder shall be suspended or terminated, as the
 12 case may be.

13 (b) The state liquor ~~((control))~~ and cannabis board shall
 14 immediately suspend the license of a person who has been certified
 15 pursuant to RCW 74.20A.320 by the department of social and health
 16 services as a person who is not in compliance with a support order.
 17 If the person has continued to meet all other requirements for
 18 reinstatement during the suspension, reissuance of the license shall
 19 be automatic upon the state liquor ~~((control))~~ and cannabis board's
 20 receipt of a release issued by the department of social and health
 21 services stating that the licensee is in compliance with the order.

22 (c) The state liquor ~~((control))~~ and cannabis board may request
 23 the appointment of administrative law judges under chapter 34.12 RCW
 24 who shall have power to administer oaths, issue subpoenas for the
 25 attendance of witnesses and the production of papers, books,
 26 accounts, documents, and testimony, examine witnesses, and to receive
 27 testimony in any inquiry, investigation, hearing, or proceeding in
 28 any part of the state, under rules and regulations the state liquor
 29 ~~((control))~~ and cannabis board may adopt.

30 (d) Witnesses shall be allowed fees and mileage each way to and
 31 from any inquiry, investigation, hearing, or proceeding at the rate
 32 authorized by RCW 34.05.446. Fees need not be paid in advance of
 33 appearance of witnesses to testify or to produce books, records, or
 34 other legal evidence.

35 (e) In case of disobedience of any person to comply with the
 36 order of the state liquor ~~((control))~~ and cannabis board or a
 37 subpoena issued by the state liquor ~~((control))~~ and cannabis board,
 38 or any of its members, or administrative law judges, or on the
 39 refusal of a witness to testify to any matter regarding which he or
 40 she may be lawfully interrogated, the judge of the superior court of

1 the county in which the person resides, on application of any member
2 of the board or administrative law judge, shall compel obedience by
3 contempt proceedings, as in the case of disobedience of the
4 requirements of a subpoena issued from said court or a refusal to
5 testify therein.

6 (3) Upon receipt of notice of the suspension or cancellation of a
7 license, the licensee shall forthwith deliver up the license to the
8 state liquor (~~((control))~~) and cannabis board. Where the license has
9 been suspended only, the state liquor (~~((control))~~) and cannabis board
10 shall return the license to the licensee at the expiration or
11 termination of the period of suspension. The state liquor (~~((control))~~)
12 and cannabis board shall notify all other licensees in the county
13 where the subject licensee has its premises of the suspension or
14 cancellation of the license; and no other licensee or employee of
15 another licensee may allow or cause any marijuana, useable marijuana,
16 or marijuana-infused products to be delivered to or for any person at
17 the premises of the subject licensee.

18 (4) Every license issued under chapter 3, Laws of 2013 shall be
19 subject to all conditions and restrictions imposed by chapter 3, Laws
20 of 2013 or by rules adopted by the state liquor (~~((control))~~) and
21 cannabis board to implement and enforce chapter 3, Laws of 2013. All
22 conditions and restrictions imposed by the state liquor (~~((control))~~)
23 and cannabis board in the issuance of an individual license shall be
24 listed on the face of the individual license along with the trade
25 name, address, and expiration date.

26 (5) Every licensee shall post and keep posted its license, or
27 licenses, in a conspicuous place on the premises.

28 (6) No licensee shall employ any person under the age of twenty-
29 one years.

30 (7)(a) Before the state liquor (~~((control))~~) and cannabis board
31 issues a new or renewed license to an applicant it shall give notice
32 of the application to the chief executive officer of the incorporated
33 city or town, if the application is for a license within an
34 incorporated city or town, or to the county legislative authority, if
35 the application is for a license outside the boundaries of
36 incorporated cities or towns.

37 (b) The incorporated city or town through the official or
38 employee selected by it, or the county legislative authority or the
39 official or employee selected by it, shall have the right to file
40 with the state liquor (~~((control))~~) and cannabis board within twenty

1 days after the date of transmittal of the notice for applications, or
 2 at least thirty days prior to the expiration date for renewals,
 3 written objections against the applicant or against the premises for
 4 which the new or renewed license is asked. The state liquor
 5 (~~((control))~~) and cannabis board may extend the time period for
 6 submitting written objections.

7 (c) The written objections shall include a statement of all facts
 8 upon which the objections are based, and in case written objections
 9 are filed, the city or town or county legislative authority may
 10 request, and the state liquor (~~((control))~~) and cannabis board may in
 11 its discretion hold, a hearing subject to the applicable provisions
 12 of Title 34 RCW. If the state liquor (~~((control))~~) and cannabis board
 13 makes an initial decision to deny a license or renewal based on the
 14 written objections of an incorporated city or town or county
 15 legislative authority, the applicant may request a hearing subject to
 16 the applicable provisions of Title 34 RCW. If a hearing is held at
 17 the request of the applicant, state liquor (~~((control))~~) and cannabis
 18 board representatives shall present and defend the state liquor
 19 (~~((control))~~) and cannabis board's initial decision to deny a license
 20 or renewal.

21 (d) Upon the granting of a license under this title the state
 22 liquor (~~((control))~~) and cannabis board shall send written notification
 23 to the chief executive officer of the incorporated city or town in
 24 which the license is granted, or to the county legislative authority
 25 if the license is granted outside the boundaries of incorporated
 26 cities or towns.

27 (8) The state liquor (~~((control))~~) and cannabis board shall not
 28 issue a license for any premises within one thousand feet of the
 29 perimeter of the grounds of any elementary or secondary school,
 30 playground, recreation center or facility, child care center, public
 31 park, public transit center, or library, or any game arcade admission
 32 to which is not restricted to persons aged twenty-one years or older.

33 (9) In determining whether to grant or deny a license or renewal
 34 of any license, the state liquor (~~((control))~~) and cannabis board shall
 35 give substantial weight to objections from an incorporated city or
 36 town or county legislative authority based upon chronic illegal
 37 activity associated with the applicant's operations of the premises
 38 proposed to be licensed or the applicant's operation of any other
 39 licensed premises, or the conduct of the applicant's patrons inside
 40 or outside the licensed premises. "Chronic illegal activity" means

1 (a) a pervasive pattern of activity that threatens the public health,
 2 safety, and welfare of the city, town, or county including, but not
 3 limited to, open container violations, assaults, disturbances,
 4 disorderly conduct, or other criminal law violations, or as
 5 documented in crime statistics, police reports, emergency medical
 6 response data, calls for service, field data, or similar records of a
 7 law enforcement agency for the city, town, county, or any other
 8 municipal corporation or any state agency; or (b) an unreasonably
 9 high number of citations for violations of RCW 46.61.502 associated
 10 with the applicant's or licensee's operation of any licensed premises
 11 as indicated by the reported statements given to law enforcement upon
 12 arrest.

13 **Sec. 7.** RCW 69.50.342 and 2013 c 3 s 9 are each amended to read
 14 as follows:

15 (1) For the purpose of carrying into effect the provisions of
 16 chapter 3, Laws of 2013 according to their true intent or of
 17 supplying any deficiency therein, the state liquor (~~((control))~~) and
 18 cannabis board may adopt rules not inconsistent with the spirit of
 19 chapter 3, Laws of 2013 as are deemed necessary or advisable. Without
 20 limiting the generality of the preceding sentence, the state liquor
 21 (~~((control))~~) and cannabis board is empowered to adopt rules regarding
 22 the following:

23 ~~((1))~~ (a) The equipment and management of retail outlets and
 24 premises where marijuana is produced or processed, and inspection of
 25 the retail outlets and premises where marijuana is produced or
 26 processed;

27 ~~((2))~~ (b) The books and records to be created and maintained by
 28 licensees, the reports to be made thereon to the state liquor
 29 (~~((control))~~) and cannabis board, and inspection of the books and
 30 records;

31 ~~((3))~~ (c) Methods of producing, processing, and packaging
 32 marijuana, useable marijuana, marijuana concentrates, and marijuana-
 33 infused products; conditions of sanitation; safe handling
 34 requirements; approved pesticides and pesticide testing requirements;
 35 and standards of ingredients, quality, and identity of marijuana,
 36 useable marijuana, marijuana concentrates, and marijuana-infused
 37 products produced, processed, packaged, or sold by licensees;

1 ~~((4))~~ (d) Security requirements for retail outlets and premises
2 where marijuana is produced or processed, and safety protocols for
3 licensees and their employees;
4 ~~((5))~~ (e) Screening, hiring, training, and supervising
5 employees of licensees;
6 ~~((6))~~ (f) Retail outlet locations and hours of operation;
7 ~~((7))~~ (g) Labeling requirements and restrictions on
8 advertisement of marijuana, useable marijuana, marijuana
9 concentrates, and marijuana-infused products for sale in retail
10 outlets;
11 ~~((8))~~ (h) Forms to be used for purposes of this chapter (~~(3,~~
12 ~~Laws of 2013))~~ and chapter 69.51A RCW or the rules adopted to
13 implement and enforce (~~(it))~~ these chapters, the terms and conditions
14 to be contained in licenses issued under this chapter (~~(3, Laws of~~
15 ~~2013))~~ and chapter 69.51A RCW, and the qualifications for receiving a
16 license issued under this chapter (~~(3, Laws of 2013))~~ and chapter
17 69.51A RCW, including a criminal history record information check.
18 The state liquor (~~(control))~~ and cannabis board may submit any
19 criminal history record information check to the Washington state
20 patrol and to the identification division of the federal bureau of
21 investigation in order that these agencies may search their records
22 for prior arrests and convictions of the individual or individuals
23 who filled out the forms. The state liquor (~~(control))~~ and cannabis
24 board shall require fingerprinting of any applicant whose criminal
25 history record information check is submitted to the federal bureau
26 of investigation;
27 ~~((9))~~ (i) Application, reinstatement, and renewal fees for
28 licenses issued under this chapter (~~(3, Laws of 2013))~~ and chapter
29 69.51A RCW, and fees for anything done or permitted to be done under
30 the rules adopted to implement and enforce this chapter (~~(3, Laws of~~
31 ~~2013))~~ and chapter 69.51A RCW;
32 ~~((10))~~ (j) The manner of giving and serving notices required by
33 this chapter (~~(3, Laws of 2013))~~ and chapter 69.51A RCW or rules
34 adopted to implement or enforce (~~(it))~~ these chapters;
35 ~~((11))~~ (k) Times and periods when, and the manner, methods, and
36 means by which, licensees shall transport and deliver marijuana,
37 marijuana concentrates, useable marijuana, and marijuana-infused
38 products within the state;
39 ~~((12))~~ (l) Identification, seizure, confiscation, destruction,
40 or donation to law enforcement for training purposes of all

1 marijuana, marijuana concentrates, useable marijuana, and marijuana-
 2 infused products produced, processed, sold, or offered for sale
 3 within this state which do not conform in all respects to the
 4 standards prescribed by this chapter ((3, Laws of 2013)) or chapter
 5 69.51A RCW or the rules adopted to implement and enforce ~~((it+~~
 6 ~~PROVIDED, That nothing in chapter 3, Laws of 2013 shall be construed~~
 7 ~~as authorizing the state liquor control board to seize, confiscate,~~
 8 ~~destroy, or donate to law enforcement marijuana, useable marijuana,~~
 9 ~~or marijuana-infused products produced, processed, sold, offered for~~
 10 ~~sale, or possessed in compliance with the Washington state medical~~
 11 ~~use of cannabis act, chapter 69.51A RCW)) these chapters.~~

12 (2) Rules adopted on retail outlets holding medical marijuana
 13 endorsements must be adopted in coordination and consultation with
 14 the department.

15 **Sec. 8.** RCW 69.50.345 and 2013 c 3 s 10 are each amended to read
 16 as follows:

17 The state liquor ~~((control))~~ and cannabis board, subject to the
 18 provisions of this chapter ((3, Laws of 2013)), must adopt rules ~~((by~~
 19 ~~December 1, 2013,))~~ that establish the procedures and criteria
 20 necessary to implement the following:

21 (1) Licensing of marijuana producers, marijuana processors, and
 22 marijuana retailers, including prescribing forms and establishing
 23 application, reinstatement, and renewal fees.

24 (a) Application forms for marijuana producers must request the
 25 applicant to state whether the applicant intends to produce marijuana
 26 for sale by marijuana retailers holding medical marijuana
 27 endorsements and the amount of or percentage of canopy the applicant
 28 intends to commit to growing plants determined by the department
 29 under section 10 of this act to be of a THC concentration, CBD
 30 concentration, or THC to CBD ratio appropriate for marijuana
 31 concentrates, useable marijuana, or marijuana-infused products sold
 32 to qualifying patients.

33 (b) The state liquor and cannabis board must reconsider and
 34 increase limits on the amount of square feet permitted to be in
 35 production on the effective date of this section and increase the
 36 percentage of production space for those marijuana producers who
 37 intend to grow plants for marijuana retailers holding medical
 38 marijuana endorsements if the marijuana producer designates the
 39 increased production space to plants determined by the department

1 under section 10 of this act to be of a THC concentration, CBD
 2 concentration, or THC to CBD ratio appropriate for marijuana
 3 concentrates, useable marijuana, or marijuana-infused products to be
 4 sold to qualifying patients. If current marijuana producers do not
 5 use all the increased production space, the state liquor and cannabis
 6 board may reopen the license period for new marijuana producer
 7 license applicants but only to those marijuana producers who agree to
 8 grow plants for marijuana retailers holding medical marijuana
 9 endorsements. Priority in licensing must be given to marijuana
 10 producer license applicants who have an application pending on the
 11 effective date of this section but who are not yet licensed and then
 12 to new marijuana producer license applicants. After January 1, 2017,
 13 any reconsideration of the limits on the amount of square feet
 14 permitted to be in production to meet the medical needs of qualifying
 15 patients must consider information contained in the medical marijuana
 16 authorization database established in section 21 of this act;

17 (2) Determining, in consultation with the office of financial
 18 management, the maximum number of retail outlets that may be licensed
 19 in each county, taking into consideration:

20 (a) Population distribution;

21 (b) Security and safety issues; ((and))

22 (c) The provision of adequate access to licensed sources of
 23 marijuana concentrates, useable marijuana, and marijuana-infused
 24 products to discourage purchases from the illegal market; and

25 (d) The number of retail outlets holding medical marijuana
 26 endorsements necessary to meet the medical needs of qualifying
 27 patients. The state liquor and cannabis board must reconsider and
 28 increase the maximum number of retail outlets it established before
 29 the effective date of this section and allow for a new license
 30 application period and a greater number of retail outlets to be
 31 permitted in order to accommodate the medical needs of qualifying
 32 patients and designated providers. After January 1, 2017, any
 33 reconsideration of the maximum number of retail outlets needed to
 34 meet the medical needs of qualifying patients must consider
 35 information contained in the medical marijuana authorization database
 36 established in section 21 of this act;

37 (3) Determining the maximum quantity of marijuana a marijuana
 38 producer may have on the premises of a licensed location at any time
 39 without violating Washington state law;

1 (4) Determining the maximum quantities of marijuana, marijuana
2 concentrates, useable marijuana, and marijuana-infused products a
3 marijuana processor may have on the premises of a licensed location
4 at any time without violating Washington state law;

5 (5) Determining the maximum quantities of marijuana concentrates,
6 useable marijuana, and marijuana-infused products a marijuana
7 retailer may have on the premises of a retail outlet at any time
8 without violating Washington state law;

9 (6) In making the determinations required by ~~((subsections (3)~~
10 ~~through (5) of))~~ this section, the state liquor ~~((control))~~ and
11 cannabis board shall take into consideration:

12 (a) Security and safety issues;

13 (b) The provision of adequate access to licensed sources of
14 marijuana, marijuana concentrates, useable marijuana, and marijuana-
15 infused products to discourage purchases from the illegal market; and

16 (c) Economies of scale, and their impact on licensees' ability to
17 both comply with regulatory requirements and undercut illegal market
18 prices;

19 (7) Determining the nature, form, and capacity of all containers
20 to be used by licensees to contain marijuana, marijuana concentrates,
21 useable marijuana, and marijuana-infused products, and their labeling
22 requirements, to include but not be limited to:

23 (a) The business or trade name and Washington state unified
24 business identifier number of the licensees that ~~((grow,))~~
25 processed~~((,))~~ and sold the marijuana, marijuana concentrates,
26 useable marijuana, or marijuana-infused product;

27 (b) Lot numbers of the marijuana, marijuana concentrates, useable
28 marijuana, or marijuana-infused product;

29 (c) THC concentration and CBD concentration of the marijuana,
30 marijuana concentrates, useable marijuana, or marijuana-infused
31 product;

32 (d) Medically and scientifically accurate information about the
33 health and safety risks posed by marijuana use; and

34 (e) Language required by RCW 69.04.480;

35 (8) In consultation with the department of agriculture and the
36 department, establishing classes of marijuana, marijuana
37 concentrates, useable marijuana, and marijuana-infused products
38 according to grade, condition, cannabinoid profile, THC
39 concentration, CBD concentration, or other qualitative measurements

1 deemed appropriate by the state liquor ~~((control))~~ and cannabis
2 board;

3 (9) Establishing reasonable time, place, and manner restrictions
4 and requirements regarding advertising of marijuana, marijuana
5 concentrates, useable marijuana, and marijuana-infused products that
6 are not inconsistent with the provisions of this chapter ~~((3, Laws of~~
7 ~~2013))~~, taking into consideration:

8 (a) Federal laws relating to marijuana that are applicable within
9 Washington state;

10 (b) Minimizing exposure of people under twenty-one years of age
11 to the advertising; ~~((and))~~

12 (c) The inclusion of medically and scientifically accurate
13 information about the health and safety risks posed by marijuana use
14 in the advertising; and

15 (d) Ensuring that retail outlets with medical marijuana
16 endorsements may advertise themselves as medical retail outlets;

17 (10) Specifying and regulating the time and periods when, and the
18 manner, methods, and means by which, licensees shall transport and
19 deliver marijuana, marijuana concentrates, useable marijuana, and
20 marijuana-infused products within the state;

21 (11) In consultation with the department and the department of
22 agriculture, establishing accreditation requirements for testing
23 laboratories used by licensees to demonstrate compliance with
24 standards adopted by the state liquor ~~((control))~~ and cannabis board,
25 and prescribing methods of producing, processing, and packaging
26 marijuana, marijuana concentrates, useable marijuana, and marijuana-
27 infused products; conditions of sanitation; and standards of
28 ingredients, quality, and identity of marijuana, marijuana
29 concentrates, useable marijuana, and marijuana-infused products
30 produced, processed, packaged, or sold by licensees;

31 (12) Specifying procedures for identifying, seizing,
32 confiscating, destroying, and donating to law enforcement for
33 training purposes all marijuana, marijuana concentrates, useable
34 marijuana, and marijuana-infused products produced, processed,
35 packaged, labeled, or offered for sale in this state that do not
36 conform in all respects to the standards prescribed by this chapter
37 ~~((3, Laws of 2013))~~ or the rules of the state liquor ~~((control))~~ and
38 cannabis board.

1 **Sec. 9.** RCW 69.50.354 and 2014 c 192 s 3 are each amended to
2 read as follows:

3 There may be licensed, in no greater number in each of the
4 counties of the state than as the state liquor (~~((control))~~) and
5 cannabis board shall deem advisable, retail outlets established for
6 the purpose of making marijuana concentrates, useable marijuana, and
7 marijuana-infused products available for sale to adults aged twenty-
8 one and over. Retail sale of marijuana concentrates, useable
9 marijuana, and marijuana-infused products in accordance with the
10 provisions of this chapter (~~((3, Laws of 2013))~~) and the rules adopted
11 to implement and enforce it, by a validly licensed marijuana retailer
12 or retail outlet employee, shall not be a criminal or civil offense
13 under Washington state law.

14 NEW SECTION. **Sec. 10.** A new section is added to chapter 69.50
15 RCW to read as follows:

16 (1) A medical marijuana endorsement to a marijuana retail license
17 is hereby established to permit a marijuana retailer to sell
18 marijuana for medical use to qualifying patients and designated
19 providers. This endorsement also permits such retailers to provide
20 marijuana at no charge, at their discretion, to qualifying patients
21 and designated providers.

22 (2) An applicant may apply for a medical marijuana endorsement
23 concurrently with an application for a marijuana retail license.

24 (3) To be issued an endorsement, a marijuana retailer must:

25 (a) Not authorize the medical use of marijuana for qualifying
26 patients at the retail outlet or permit health care professionals to
27 authorize the medical use of marijuana for qualifying patients at the
28 retail outlet;

29 (b) Carry marijuana concentrates and marijuana-infused products
30 identified by the department under subsection (4) of this section;

31 (c) Not use labels or market marijuana concentrates, useable
32 marijuana, or marijuana-infused products in a way that make them
33 intentionally attractive to minors;

34 (d) Demonstrate the ability to enter qualifying patients and
35 designated providers in the medical marijuana authorization database
36 established in section 21 of this act and issue recognition cards and
37 agree to enter qualifying patients and designated providers into the
38 database and issue recognition cards in compliance with department
39 standards;

1 (e) Keep copies of the qualifying patient's or designated
2 provider's recognition card, or keep equivalent records as required
3 by rule of the state liquor and cannabis board or the department of
4 revenue to document the validity of tax exempt sales; and

5 (f) Meet other requirements as adopted by rule of the department
6 or the state liquor and cannabis board.

7 (4) The department, in conjunction with the state liquor and
8 cannabis board, must adopt rules on requirements for marijuana
9 concentrates, useable marijuana, and marijuana-infused products that
10 may be sold, or provided at no charge, to qualifying patients or
11 designated providers at a retail outlet holding a medical marijuana
12 endorsement. These rules must include:

13 (a) THC concentration, CBD concentration, or low THC, high CBD
14 ratios appropriate for marijuana concentrates, useable marijuana, or
15 marijuana-infused products sold to qualifying patients or designated
16 providers;

17 (b) Labeling requirements including that the labels attached to
18 marijuana concentrates, useable marijuana, or marijuana-infused
19 products contain THC concentration, CBD concentration, and THC to CBD
20 ratios;

21 (c) Other product requirements, including any additional mold,
22 fungus, or pesticide testing requirements, or limitations to the
23 types of solvents that may be used in marijuana processing that the
24 department deems necessary to address the medical needs of qualifying
25 patients;

26 (d) Safe handling requirements for marijuana concentrates,
27 useable marijuana, or marijuana-infused products; and

28 (e) Training requirements for employees.

29 (5) A marijuana retailer holding an endorsement to sell marijuana
30 to qualifying patients or designated providers must train its
31 employees on:

32 (a) Procedures regarding the recognition of valid authorizations
33 and the use of equipment to enter qualifying patients and designated
34 providers into the medical marijuana authorization database;

35 (b) Recognition of valid recognition cards; and

36 (c) Recognition of strains, varieties, THC concentration, CBD
37 concentration, and THC to CBD ratios of marijuana concentrates,
38 useable marijuana, and marijuana-infused products, available for sale
39 when assisting qualifying patients and designated providers at the
40 retail outlet.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 69.50
2 RCW to read as follows:

3 A marijuana retailer or a marijuana retailer holding a medical
4 marijuana endorsement may sell products with a THC concentration of
5 0.3 percent or less. Marijuana retailers holding a medical marijuana
6 endorsement may also provide these products at no charge to
7 qualifying patients or designated providers.

8 **Sec. 12.** RCW 69.50.357 and 2014 c 192 s 4 are each amended to
9 read as follows:

10 (1) Retail outlets shall sell no products or services other than
11 marijuana concentrates, useable marijuana, marijuana-infused
12 products, or paraphernalia intended for the storage or use of
13 marijuana concentrates, useable marijuana, or marijuana-infused
14 products.

15 (2) Licensed marijuana retailers shall not employ persons under
16 twenty-one years of age or allow persons under twenty-one years of
17 age to enter or remain on the premises of a retail outlet. However,
18 qualifying patients between eighteen and twenty-one years of age with
19 a recognition card may enter and remain on the premises of a retail
20 outlet holding a medical marijuana endorsement and may purchase
21 products for their personal medical use. Qualifying patients who are
22 under the age of eighteen with a recognition card and who accompany
23 their designated providers may enter and remain on the premises of a
24 retail outlet holding a medical marijuana endorsement, but may not
25 purchase products for their personal medical use.

26 (3)(a) Licensed marijuana retailers must ensure that all
27 employees are trained on the rules adopted to implement this chapter,
28 identification of persons under the age of twenty-one, and other
29 requirements adopted by the state liquor and cannabis board to ensure
30 that persons under the age of twenty-one are not permitted to enter
31 or remain on the premises of a retail outlet.

32 (b) Licensed marijuana retailers with a medical marijuana
33 endorsement must ensure that all employees are trained on the
34 subjects required by (a) of this subsection as well as identification
35 of authorizations and recognition cards. Employees must also be
36 trained to permit qualifying patients who hold recognition cards and
37 are between the ages of eighteen and twenty-one to enter the premises
38 and purchase marijuana for their personal medical use and to permit
39 qualifying patients who are under the age of eighteen with a

1 recognition card to enter the premises if accompanied by their
 2 designated providers.

3 (4) Licensed marijuana retailers shall not display any signage in
 4 a window, on a door, or on the outside of the premises of a retail
 5 outlet that is visible to the general public from a public right-of-
 6 way, other than a single sign no larger than one thousand six hundred
 7 square inches identifying the retail outlet by the licensee's
 8 business or trade name. Retail outlets that hold medical marijuana
 9 endorsements may include this information on signage.

10 ~~((4))~~ (5) Licensed marijuana retailers shall not display
 11 marijuana concentrates, useable marijuana, or marijuana-infused
 12 products in a manner that is visible to the general public from a
 13 public right-of-way.

14 ~~((5))~~ (6) No licensed marijuana retailer or employee of a
 15 retail outlet shall open or consume, or allow to be opened or
 16 consumed, any marijuana concentrates, useable marijuana, or
 17 marijuana-infused product on the outlet premises.

18 ~~((6))~~ (7) The state liquor ~~((control))~~ and cannabis board shall
 19 fine a licensee one thousand dollars for each violation of any
 20 subsection of this section. Fines collected under this section must
 21 be deposited into the dedicated marijuana fund created under RCW
 22 69.50.530.

23 **Sec. 13.** RCW 69.50.360 and 2014 c 192 s 5 are each amended to
 24 read as follows:

25 The following acts, when performed by a validly licensed
 26 marijuana retailer or employee of a validly licensed retail outlet in
 27 compliance with rules adopted by the state liquor ~~((control))~~ and
 28 cannabis board to implement and enforce chapter 3, Laws of 2013,
 29 shall not constitute criminal or civil offenses under Washington
 30 state law:

31 (1) Purchase and receipt of marijuana concentrates, useable
 32 marijuana, or marijuana-infused products that have been properly
 33 packaged and labeled from a marijuana processor validly licensed
 34 under this chapter ~~((3, Laws of 2013))~~;

35 (2) Possession of quantities of marijuana concentrates, useable
 36 marijuana, or marijuana-infused products that do not exceed the
 37 maximum amounts established by the state liquor ~~((control))~~ and
 38 cannabis board under RCW 69.50.345(5); and

- 1 (3) Delivery, distribution, and sale, on the premises of the
- 2 retail outlet, of any combination of the following amounts of
- 3 marijuana concentrates, useable marijuana, or marijuana-infused
- 4 product to any person twenty-one years of age or older:
- 5 (a) One ounce of useable marijuana;
- 6 (b) Sixteen ounces of marijuana-infused product in solid form;
- 7 (c) Seventy-two ounces of marijuana-infused product in liquid
- 8 form; or
- 9 (d) Seven grams of marijuana concentrate.

10 **Sec. 14.** RCW 69.50.4013 and 2013 c 3 s 20 are each amended to
11 read as follows:

12 (1) It is unlawful for any person to possess a controlled
13 substance unless the substance was obtained directly from, or
14 pursuant to, a valid prescription or order of a practitioner while
15 acting in the course of his or her professional practice, or except
16 as otherwise authorized by this chapter.

17 (2) Except as provided in RCW 69.50.4014, any person who violates
18 this section is guilty of a class C felony punishable under chapter
19 9A.20 RCW.

20 (3) The possession, by a person twenty-one years of age or older,
21 of useable marijuana or marijuana-infused products in amounts that do
22 not exceed those set forth in RCW 69.50.360(3) is not a violation of
23 this section, this chapter, or any other provision of Washington
24 state law.

25 (4) No person under twenty-one years of age may possess,
26 manufacture, sell, or distribute marijuana, marijuana-infused
27 products, or marijuana concentrates, regardless of THC concentration.
28 This does not include qualifying patients with a valid authorization.

29 (5) The possession by a qualifying patient or designated provider
30 of marijuana concentrates, useable marijuana, marijuana-infused
31 products, or plants in accordance with chapter 69.51A RCW is not a
32 violation of this section, this chapter, or any other provision of
33 Washington state law.

34 **NEW SECTION. Sec. 15.** A new section is added to chapter 69.50
35 RCW to read as follows:

36 (1) Nothing in this chapter permits anyone other than a validly
37 licensed marijuana processor to use butane or other explosive gases
38 to extract or separate resin from marijuana or to produce or process

1 any form of marijuana concentrates or marijuana-infused products that
 2 include marijuana concentrates not purchased from a validly licensed
 3 marijuana retailer as an ingredient. The extraction or separation of
 4 resin from marijuana, the processing of marijuana concentrates, and
 5 the processing of marijuana-infused products that include marijuana
 6 concentrates not purchased from a validly licensed marijuana retailer
 7 as an ingredient by any person other than a validly licensed
 8 marijuana processor each constitute manufacture of marijuana in
 9 violation of RCW 69.50.401. Cooking oil, butter, and other
 10 nonexplosive home cooking substances may be used to make marijuana
 11 extracts for noncommercial personal use.

12 (2) Except for the use of butane, the state liquor and cannabis
 13 board may not enforce this section until it has adopted the rules
 14 required by section 28 of this act.

15 **Sec. 16.** RCW 69.51A.005 and 2011 c 181 s 102 are each amended to
 16 read as follows:

17 (1) The legislature finds that:

18 (a) There is medical evidence that some patients with terminal or
 19 debilitating medical conditions may, under their health care
 20 professional's care, benefit from the medical use of ~~((cannabis))~~
 21 marijuana. Some of the conditions for which ~~((cannabis))~~ marijuana
 22 appears to be beneficial include, but are not limited to:

23 (i) Nausea, vomiting, and cachexia associated with cancer, HIV-
 24 positive status, AIDS, hepatitis C, anorexia, and their treatments;

25 (ii) Severe muscle spasms associated with multiple sclerosis,
 26 epilepsy, and other seizure and spasticity disorders;

27 (iii) Acute or chronic glaucoma;

28 (iv) Crohn's disease; and

29 (v) Some forms of intractable pain.

30 (b) Humanitarian compassion necessitates that the decision to use
 31 ~~((cannabis))~~ marijuana by patients with terminal or debilitating
 32 medical conditions is a personal, individual decision, based upon
 33 their health care professional's professional medical judgment and
 34 discretion.

35 (2) Therefore, the legislature intends that, so long as such
 36 activities are in strict compliance with this chapter:

37 (a) Qualifying patients with terminal or debilitating medical
 38 conditions who, in the judgment of their health care professionals,
 39 may benefit from the medical use of ~~((cannabis))~~ marijuana, shall not

1 be arrested, prosecuted, or subject to other criminal sanctions or
 2 civil consequences under state law based solely on their medical use
 3 of ~~((cannabis))~~ marijuana, notwithstanding any other provision of
 4 law;

5 (b) Persons who act as designated providers to such patients
 6 shall also not be arrested, prosecuted, or subject to other criminal
 7 sanctions or civil consequences under state law, notwithstanding any
 8 other provision of law, based solely on their assisting with the
 9 medical use of ~~((cannabis))~~ marijuana; and

10 (c) Health care professionals shall also not be arrested,
 11 prosecuted, or subject to other criminal sanctions or civil
 12 consequences under state law for the proper authorization of medical
 13 use of ~~((cannabis))~~ marijuana by qualifying patients for whom, in the
 14 health care professional's professional judgment, the medical use of
 15 ~~((cannabis))~~ marijuana may prove beneficial.

16 (3) Nothing in this chapter establishes the medical necessity or
 17 medical appropriateness of ~~((cannabis))~~ marijuana for treating
 18 terminal or debilitating medical conditions as defined in RCW
 19 69.51A.010.

20 (4) Nothing in this chapter diminishes the authority of
 21 correctional agencies and departments, including local governments or
 22 jails, to establish a procedure for determining when the use of
 23 ~~((cannabis))~~ marijuana would impact community safety or the effective
 24 supervision of those on active supervision for a criminal conviction,
 25 nor does it create the right to any accommodation of any medical use
 26 of ~~((cannabis))~~ marijuana in any correctional facility or jail.

27 **Sec. 17.** RCW 69.51A.010 and 2010 c 284 s 2 are each amended to
 28 read as follows:

29 The definitions in this section apply throughout this chapter
 30 unless the context clearly requires otherwise.

31 (1) "Designated provider" means a person who ~~((+))~~
 32 ~~((+))~~ is ~~((eighteen))~~ twenty-one years of age or older ~~((+))~~
 33 ~~((+))~~ and:

34 (a)(i) Is the parent or guardian of a qualifying patient who is
 35 under the age of eighteen and beginning July 1, 2016, holds a
 36 recognition card; or

37 (ii) Has been designated in writing by a qualifying patient to
 38 serve as ((a)) the designated provider ((under this chapter)) for
 39 that patient;

1 (b)(i) Has an authorization from the qualifying patient's health
2 care professional; or
3 (ii) Beginning July 1, 2016:
4 (A) Has been entered into the medical marijuana authorization
5 database as being the designated provider to a qualifying patient;
6 and
7 (B) Has been provided a recognition card;
8 (c) Is prohibited from consuming marijuana obtained for the
9 personal, medical use of the qualifying patient for whom the
10 individual is acting as designated provider; ~~((and))~~
11 (d) Provides marijuana to only the qualifying patient that has
12 designated him or her;
13 (e) Is in compliance with the terms and conditions of this
14 chapter; and
15 (f) Is the designated provider to only one patient at any one
16 time.
17 (2) "Health care professional," for purposes of this chapter
18 only, means a physician licensed under chapter 18.71 RCW, a physician
19 assistant licensed under chapter 18.71A RCW, an osteopathic physician
20 licensed under chapter 18.57 RCW, an osteopathic physicians'
21 assistant licensed under chapter 18.57A RCW, a naturopath licensed
22 under chapter 18.36A RCW, or an advanced registered nurse
23 practitioner licensed under chapter 18.79 RCW.
24 (3) "Medical use of marijuana" means the manufacture, production,
25 possession, transportation, delivery, ingestion, application, or
26 administration of marijuana ~~((as defined in RCW 69.50.101(q),))~~
27 for the exclusive benefit of a qualifying patient in the treatment of his
28 or her terminal or debilitating ~~((illness))~~ medical condition.
29 (4) "Qualifying patient" means a person who:
30 (a) (i) Is a patient of a health care professional;
31 ~~((b))~~ (ii) Has been diagnosed by that health care professional
32 as having a terminal or debilitating medical condition;
33 ~~((c))~~ (iii) Is a resident of the state of Washington at the
34 time of such diagnosis;
35 ~~((d))~~ (iv) Has been advised by that health care professional
36 about the risks and benefits of the medical use of marijuana; ~~((and~~
37 ~~(e))~~ (v) Has been advised by that health care professional that
38 they may benefit from the medical use of marijuana;
39 (vi) (A) Has an authorization from his or her health care
40 professional; or

1 (B) Beginning July 1, 2016, has been entered into the medical
2 marijuana authorization database and has been provided a recognition
3 card; and
4 (vii) Is otherwise in compliance with the terms and conditions
5 established in this chapter.
6 (b) "Qualifying patient" does not include a person who is
7 actively being supervised for a criminal conviction by a corrections
8 agency or department that has determined that the terms of this
9 chapter are inconsistent with and contrary to his or her supervision
10 and all related processes and procedures related to that supervision.
11 (5) "Tamper-resistant paper" means paper that meets one or more
12 of the following industry-recognized features:
13 (a) One or more features designed to prevent copying of the
14 paper;
15 (b) One or more features designed to prevent the erasure or
16 modification of information on the paper; or
17 (c) One or more features designed to prevent the use of
18 counterfeit ~~((valid documentation))~~ authorization.
19 (6) "Terminal or debilitating medical condition" means a
20 condition severe enough to significantly interfere with the patient's
21 activities of daily living and ability to function, which can be
22 objectively assessed and evaluated and limited to the following:
23 (a) Cancer, human immunodeficiency virus (HIV), multiple
24 sclerosis, epilepsy or other seizure disorder, or spasticity
25 disorders; ~~((or))~~
26 (b) Intractable pain, limited for the purpose of this chapter to
27 mean pain unrelieved by standard medical treatments and medications;
28 ~~((or))~~
29 (c) Glaucoma, either acute or chronic, limited for the purpose of
30 this chapter to mean increased intraocular pressure unrelieved by
31 standard treatments and medications; ~~((or))~~
32 (d) Crohn's disease with debilitating symptoms unrelieved by
33 standard treatments or medications; ~~((or))~~
34 (e) Hepatitis C with debilitating nausea or intractable pain
35 unrelieved by standard treatments or medications; ~~((or))~~
36 (f) Diseases, including anorexia, which result in nausea,
37 vomiting, wasting, appetite loss, cramping, seizures, muscle spasms,
38 or spasticity, when these symptoms are unrelieved by standard
39 treatments or medications; ~~((or))~~

1 (g) ~~((Any other medical condition duly approved by the Washington~~
2 ~~state medical quality assurance commission in consultation with the~~
3 ~~board of osteopathic medicine and surgery as directed in this~~
4 ~~chapter))~~ Posttraumatic stress disorder; or
5 (h) Traumatic brain injury.
6 (7) ~~((("Valid documentation")))~~ (a) Until July 1, 2016,
7 "authorization" means:
8 ~~((a))~~ (i) A statement signed and dated by a qualifying
9 patient's health care professional written on tamper-resistant paper,
10 which states that, in the health care professional's professional
11 opinion, the patient may benefit from the medical use of marijuana;
12 and
13 ~~((b))~~ (ii) Proof of identity such as a Washington state
14 driver's license or identicard, as defined in RCW 46.20.035.
15 (b) Beginning July 1, 2016, "authorization" means a form
16 developed by the department that is completed and signed by a
17 qualifying patient's health care professional and printed on tamper-
18 resistant paper.
19 (c) An authorization is not a prescription as defined in RCW
20 69.50.101.
21 (8) "Recognition card" means a card issued to qualifying patients
22 and designated providers by a marijuana retailer with a medical
23 marijuana endorsement that has entered them into the medical
24 marijuana authorization database.
25 (9) "CBD concentration" means the percent of cannabidiol content
26 per dry weight of any part of the plant Cannabis, or per volume or
27 weight of marijuana product.
28 (10) "Department" means the department of health.
29 (11) "Marijuana" has the meaning provided in RCW 69.50.101.
30 (12) "Marijuana concentrates" has the meaning provided in RCW
31 69.50.101.
32 (13) "Marijuana processor" has the meaning provided in RCW
33 69.50.101.
34 (14) "Marijuana producer" has the meaning provided in RCW
35 69.50.101.
36 (15) "Marijuana retailer" has the meaning provided in RCW
37 69.50.101.
38 (16) "Marijuana retailer with a medical marijuana endorsement"
39 means a marijuana retailer that has been issued a medical marijuana

1 endorsement by the state liquor and cannabis board pursuant to
2 section 10 of this act.

3 (17) "Marijuana-infused products" has the meaning provided in RCW
4 69.50.101.

5 (18) "Medical marijuana authorization database" means the secure
6 and confidential database established in section 21 of this act.

7 (19) "Plant" means a marijuana plant having at least three
8 distinguishable and distinct leaves, each leaf being at least three
9 centimeters in diameter, and a readily observable root formation
10 consisting of at least two separate and distinct roots, each being at
11 least two centimeters in length. Multiple stalks emanating from the
12 same root ball or root system is considered part of the same single
13 plant.

14 (20) "Retail outlet" has the meaning provided in RCW 69.50.101.

15 (21) "Secretary" means the secretary of the department of health.

16 (22) "THC concentration" has the meaning provided in RCW
17 69.50.101.

18 (23) "Useable marijuana" has the meaning provided in RCW
19 69.50.101.

20 (24) "Low THC, high CBD" means products determined by the
21 department to have a low THC, high CBD ratio under section 10 of this
22 act. Low THC, high CBD products must be inhalable, ingestible, or
23 absorbable.

24 (25) "Public place" has the meaning provided in RCW 70.160.020.

25 (26) "Housing unit" means a house, an apartment, a mobile home, a
26 group of rooms, or a single room that is occupied as separate living
27 quarters, in which the occupants live and eat separately from any
28 other persons in the building, and which have direct access from the
29 outside of the building or through a common hall.

30 **Sec. 18.** RCW 69.51A.030 and 2011 c 181 s 301 are each amended to
31 read as follows:

32 (1) The following acts do not constitute crimes under state law
33 or unprofessional conduct under chapter 18.130 RCW, and a health care
34 professional may not be arrested, searched, prosecuted, disciplined,
35 or subject to other criminal sanctions or civil consequences or
36 liability under state law, or have real or personal property
37 searched, seized, or forfeited pursuant to state law, notwithstanding
38 any other provision of law as long as the health care professional
39 complies with subsection (2) of this section:

1 (a) Advising a patient about the risks and benefits of medical
 2 use of ~~((cannabis))~~ marijuana or that the patient may benefit from
 3 the medical use of ~~((cannabis))~~ marijuana; or

4 (b) Providing a patient or designated provider meeting the
 5 criteria established under RCW 69.51A.010~~((+26+))~~ with ~~((valid~~
 6 ~~documentation))~~ an authorization, based upon the health care
 7 professional's assessment of the patient's medical history and
 8 current medical condition, ~~((where such use is))~~ if the health care
 9 professional has complied with this chapter and he or she determines
 10 within a professional standard of care or in the individual health
 11 care professional's medical judgment the qualifying patient may
 12 benefit from the medical use of marijuana.

13 (2)(a) A health care professional may ~~((only))~~ provide a
 14 qualifying patient or that patient's designated provider with ~~((valid~~
 15 ~~documentation authorizing))~~ an authorization for the medical use of
 16 ~~((cannabis or register the patient with the registry established in~~
 17 ~~section 901 of this act if he or she has a newly initiated or~~
 18 ~~existing documented relationship with the patient, as a primary care~~
 19 ~~provider or a specialist, relating to the diagnosis and ongoing~~
 20 ~~treatment or monitoring of the patient's terminal or debilitating~~
 21 ~~medical condition, and only after:~~

22 ~~((i) Completing a))~~ marijuana in accordance with this section.

23 (b) In order to authorize for the medical use of marijuana under
 24 (a) of this subsection, the health care professional must:

25 (i) Have a documented relationship with the patient, as a
 26 principal care provider or a specialist, relating to the diagnosis
 27 and ongoing treatment or monitoring of the patient's terminal or
 28 debilitating medical condition;

29 (ii) Complete an in-person physical examination of the patient
 30 ((as appropriate, based on the patient's condition and age));

31 ~~((((ii) Documenting))~~ (iii) Document the terminal or debilitating
 32 medical condition of the patient in the patient's medical record and
 33 that the patient may benefit from treatment of this condition or its
 34 symptoms with medical use of ~~((cannabis))~~ marijuana;

35 ~~((((iii) Informing))~~ (iv) Inform the patient of other options for
 36 treating the terminal or debilitating medical condition and
 37 documenting in the patient's medical record that the patient has
 38 received this information; ((and

39 ~~((iv) Documenting))~~ (v) Document in the patient's medical record
 40 other measures attempted to treat the terminal or debilitating

1 medical condition that do not involve the medical use of ~~((cannabis))~~
2 marijuana; and
3 (vi) Complete an authorization on forms developed by the
4 department, in accordance with subsection (3) of this section.
5 ~~((b))~~ (c) For a qualifying patient eighteen years of age or
6 older, an authorization expires one year after its issuance. For a
7 qualifying patient less than eighteen years of age, an authorization
8 expires six months after its issuance. An authorization may be
9 renewed upon completion of an in-person physical examination and
10 compliance with the other requirements of (b) of this subsection.
11 (d) A health care professional shall not:
12 (i) Accept, solicit, or offer any form of pecuniary remuneration
13 from or to a ~~((licensed dispenser, licensed producer, or licensed~~
14 ~~processor of cannabis products))~~ marijuana retailer, marijuana
15 processor, or marijuana producer;
16 (ii) Offer a discount or any other thing of value to a qualifying
17 patient who is a customer of, or agrees to be a customer of, a
18 particular ~~((licensed dispenser, licensed producer, or licensed~~
19 ~~processor of cannabis products))~~ marijuana retailer;
20 (iii) Examine or offer to examine a patient for purposes of
21 diagnosing a terminal or debilitating medical condition at a location
22 where ~~((cannabis))~~ marijuana is produced, processed, or ~~((dispensed))~~
23 sold;
24 (iv) Have a business or practice which consists ~~((solely))~~
25 primarily of authorizing the medical use of ~~((cannabis))~~ marijuana or
26 authorize the medical use of marijuana at any location other than his
27 or her practice's permanent physical location;
28 (v) ~~((Include any statement or reference, visual or otherwise, on~~
29 ~~the medical use of cannabis in any advertisement for his or her~~
30 ~~business or practice))~~ Except as provided in section 35 of this act,
31 sell, or provide at no charge, marijuana concentrates, marijuana-
32 infused products, or useable marijuana to a qualifying patient or
33 designated provider; or
34 (vi) Hold an economic interest in an enterprise that produces,
35 processes, or ~~((dispenses cannabis))~~ sells marijuana if the health
36 care professional authorizes the medical use of ~~((cannabis))~~
37 marijuana.
38 (3) ~~((A violation of any provision of subsection (2) of this~~
39 ~~section constitutes unprofessional conduct under chapter 18.130~~
40 ~~RCW-))~~ The department shall develop the form for the health care

1 professional to use as an authorization for qualifying patients and
 2 designated providers. The form shall include the qualifying patient's
 3 or designated provider's name, address, and date of birth; the health
 4 care professional's name, address, and license number; the amount of
 5 marijuana recommended for the qualifying patient; a telephone number
 6 where the authorization can be verified during normal business hours;
 7 the dates of issuance and expiration; and a statement that an
 8 authorization does not provide protection from arrest unless the
 9 qualifying patient or designated provider is also entered in the
 10 medical marijuana authorization database and holds a recognition
 11 card.

12 (4) Until July 1, 2016, a health care professional who, within a
 13 single calendar month, authorizes the medical use of marijuana to
 14 more than thirty patients must report the number of authorizations
 15 issued.

16 (5) The appropriate health professions disciplining authority may
 17 inspect or request patient records to confirm compliance with this
 18 section. The health care professional must provide access to or
 19 produce documents, records, or other items that are within his or her
 20 possession or control within twenty-one calendar days of service of a
 21 request by the health professions disciplining authority. If the
 22 twenty-one calendar day limit results in a hardship upon the health
 23 care professional, he or she may request, for good cause, an
 24 extension not to exceed thirty additional calendar days. Failure to
 25 produce the documents, records, or other items shall result in
 26 citations and fines issued consistent with RCW 18.130.230. Failure to
 27 otherwise comply with the requirements of this section shall be
 28 considered unprofessional conduct and subject to sanctions under
 29 chapter 18.130 RCW.

30 (6) After a health care professional authorizes a qualifying
 31 patient for the medical use of marijuana, he or she may discuss with
 32 the qualifying patient how to use marijuana and the types of products
 33 the qualifying patient should seek from a retail outlet.

34 **NEW SECTION. Sec. 19.** A new section is added to chapter 69.51A
 35 RCW to read as follows:

36 As part of authorizing a qualifying patient or designated
 37 provider, the health care professional may include recommendations on
 38 the amount of marijuana that is likely needed by the qualifying

1 patient for his or her medical needs and in accordance with this
2 section.

3 (1) If the health care professional does not include
4 recommendations on the qualifying patient's or designated provider's
5 authorization, the marijuana retailer with a medical marijuana
6 endorsement, when adding the qualifying patient or designated
7 provider to the medical marijuana authorization database, shall enter
8 into the database that the qualifying patient or designated provider
9 may purchase or obtain at a retail outlet holding a medical marijuana
10 endorsement a combination of the following: Forty-eight ounces of
11 marijuana-infused product in solid form; three ounces of useable
12 marijuana; two hundred sixteen ounces of marijuana-infused product in
13 liquid form; or twenty-one grams of marijuana concentrates. The
14 qualifying patient or designated provider may also grow, in his or
15 her domicile, up to six plants for the personal medical use of the
16 qualifying patient and possess up to eight ounces of useable
17 marijuana produced from his or her plants. These amounts shall be
18 specified on the recognition card that is issued to the qualifying
19 patient or designated provider.

20 (2) If the health care professional determines that the medical
21 needs of a qualifying patient exceed the amounts provided for in
22 subsection (1) of this section, the health care professional must
23 specify on the authorization that it is recommended that the patient
24 be allowed to grow, in his or her domicile, up to fifteen plants for
25 the personal medical use of the patient. A patient so authorized may
26 possess up to sixteen ounces of useable marijuana in his or her
27 domicile. The number of plants must be entered into the medical
28 marijuana authorization database by the marijuana retailer with a
29 medical marijuana endorsement and specified on the recognition card
30 that is issued to the qualifying patient or designated provider.

31 (3) If a qualifying patient or designated provider with an
32 authorization from a health care professional has not been entered
33 into the medical marijuana authorization database, he or she may not
34 receive a recognition card and may only purchase at a retail outlet,
35 whether it holds a medical marijuana endorsement or not, the amounts
36 established in RCW 69.50.360. In addition the qualifying patient or
37 the designated provider may grow, in his or her domicile, up to four
38 plants for the personal medical use of the qualifying patient and
39 possess up to six ounces of useable marijuana in his or her domicile.

1 NEW SECTION. **Sec. 20.** A new section is added to chapter 69.51A
2 RCW to read as follows:

3 (1) Health care professionals may authorize the medical use of
4 marijuana for qualifying patients who are under the age of eighteen
5 if:

6 (a) The minor's parent or guardian participates in the minor's
7 treatment and agrees to the medical use of marijuana by the minor;
8 and

9 (b) The parent or guardian acts as the designated provider for
10 the minor and has sole control over the minor's marijuana.

11 (2) The minor may not grow plants or purchase marijuana-infused
12 products, useable marijuana, or marijuana concentrates from a
13 marijuana retailer with a medical marijuana endorsement.

14 (3) Both the minor and the minor's parent or guardian who is
15 acting as the designated provider must be entered in the medical
16 marijuana authorization database and hold a recognition card.

17 (4) A health care professional who authorizes the medical use of
18 marijuana by a minor must do so as part of the course of treatment of
19 the minor's terminal or debilitating medical condition. If
20 authorizing a minor for the medical use of marijuana, the health care
21 professional must:

22 (a) Consult with other health care providers involved in the
23 minor's treatment, as medically indicated, before authorization or
24 reauthorization of the medical use of marijuana; and

25 (b) Reexamine the minor at least once every six months or more
26 frequently as medically indicated. The reexamination must:

27 (i) Determine that the minor continues to have a terminal or
28 debilitating medical condition and that the condition benefits from
29 the medical use of marijuana; and

30 (ii) Include a follow-up discussion with the minor's parent or
31 guardian to ensure the parent or guardian continues to participate in
32 the treatment of the minor.

33 NEW SECTION. **Sec. 21.** A new section is added to chapter 69.51A
34 RCW to read as follows:

35 (1) The department must contract with an entity to create,
36 administer, and maintain a secure and confidential medical marijuana
37 authorization database that, beginning July 1, 2016, allows:

38 (a) A marijuana retailer with a medical marijuana endorsement to
39 add a qualifying patient or designated provider and include the

1 amount of marijuana concentrates, useable marijuana, marijuana-
2 infused products, or plants for which the qualifying patient is
3 authorized under section 19 of this act;

4 (b) Persons authorized to prescribe or dispense controlled
5 substances to access health care information on their patients for
6 the purpose of providing medical or pharmaceutical care for their
7 patients;

8 (c) A qualifying patient or designated provider to request and
9 receive his or her own health care information or information on any
10 person or entity that has queried their name or information;

11 (d) Appropriate local, state, tribal, and federal law enforcement
12 or prosecutorial officials who are engaged in a bona fide specific
13 investigation of suspected marijuana-related activity that may be
14 illegal under Washington state law to confirm the validity of the
15 recognition card of a qualifying patient or designated provider;

16 (e) A marijuana retailer holding a medical marijuana endorsement
17 to confirm the validity of the recognition card of a qualifying
18 patient or designated provider;

19 (f) The department of revenue to verify tax exemptions under
20 chapters 82.08 and 82.12 RCW;

21 (g) The department and the health care professional's
22 disciplining authorities to monitor authorizations and ensure
23 compliance with this chapter and chapter 18.130 RCW by their
24 licensees; and

25 (h) Authorizations to expire six months or one year after entry
26 into the medical marijuana authorization database, depending on
27 whether the authorization is for a minor or an adult.

28 (2) A qualifying patient and his or her designated provider, if
29 any, may be placed in the medical marijuana authorization database at
30 a marijuana retailer with a medical marijuana endorsement. After a
31 qualifying patient or designated provider is placed in the medical
32 marijuana authorization database, he or she must be provided with a
33 recognition card that contains identifiers required in subsection (3)
34 of this section.

35 (3) The recognition card requirements must be developed by the
36 department in rule and include:

37 (a) A randomly generated and unique identifying number;

38 (b) For designated providers, the unique identifying number of
39 the qualifying patient whom the provider is assisting;

1 (c) A photograph of the qualifying patient's or designated
2 provider's face taken by an employee of the marijuana retailer with a
3 medical marijuana endorsement at the same time that the qualifying
4 patient or designated provider is being placed in the medical
5 marijuana authorization database in accordance with rules adopted by
6 the department;

7 (d) The amount of marijuana concentrates, useable marijuana,
8 marijuana-infused products, or plants for which the qualifying
9 patient is authorized under section 19 of this act;

10 (e) The effective date and expiration date of the recognition
11 card;

12 (f) The name of the health care professional who authorized the
13 qualifying patient or designated provider; and

14 (g) For the recognition card, additional security features as
15 necessary to ensure its validity.

16 (4) For qualifying patients who are eighteen years of age or
17 older and their designated providers, recognition cards are valid for
18 one year from the date the health care professional issued the
19 authorization. For qualifying patients who are under the age of
20 eighteen and their designated providers, recognition cards are valid
21 for six months from the date the health care professional issued the
22 authorization. Qualifying patients may not be reentered into the
23 medical marijuana authorization database until they have been
24 reexamined by a health care professional and determined to meet the
25 definition of qualifying patient. After reexamination, a marijuana
26 retailer with a medical marijuana endorsement must reenter the
27 qualifying patient or designated provider into the medical marijuana
28 authorization database and a new recognition card will then be issued
29 in accordance with department rules.

30 (5) If a recognition card is lost or stolen, a marijuana retailer
31 with a medical marijuana endorsement, in conjunction with the
32 database administrator, may issue a new card that will be valid for
33 six months to one year if the patient is reexamined by a health care
34 professional and determined to meet the definition of qualifying
35 patient and depending on whether the patient is under the age of
36 eighteen or eighteen years of age or older as provided in subsection
37 (4) of this section. If a reexamination is not performed, the
38 expiration date of the replacement recognition card must be the same
39 as the lost or stolen recognition card.

1 (6) The database administrator must remove qualifying patients
2 and designated providers from the medical marijuana authorization
3 database upon expiration of the recognition card. Qualifying patients
4 and designated providers may request to remove themselves from the
5 medical marijuana authorization database before expiration of a
6 recognition card and health care professionals may request to remove
7 qualifying patients and designated providers from the medical
8 marijuana authorization database if the patient or provider no longer
9 qualifies for the medical use of marijuana. The database
10 administrator must retain database records for at least five calendar
11 years to permit the state liquor and cannabis board and the
12 department of revenue to verify eligibility for tax exemptions.

13 (7) During development of the medical marijuana authorization
14 database, the database administrator must consult with the
15 department, stakeholders, and persons with relevant expertise to
16 include, but not be limited to, qualifying patients, designated
17 providers, health care professionals, state and local law enforcement
18 agencies, and the University of Washington computer science and
19 engineering security and privacy research lab or a certified cyber
20 security firm, vendor, or service.

21 (8) The medical marijuana authorization database must meet the
22 following requirements:

23 (a) Any personally identifiable information included in the
24 database must be nonreversible, pursuant to definitions and standards
25 set forth by the national institute of standards and technology;

26 (b) Any personally identifiable information included in the
27 database must not be susceptible to linkage by use of data external
28 to the database;

29 (c) The database must incorporate current best differential
30 privacy practices, allowing for maximum accuracy of database queries
31 while minimizing the chances of identifying the personally
32 identifiable information included therein; and

33 (d) The database must be upgradable and updated in a timely
34 fashion to keep current with state of the art privacy and security
35 standards and practices.

36 (9)(a) Personally identifiable information of qualifying patients
37 and designated providers included in the medical marijuana
38 authorization database is confidential and exempt from public
39 disclosure, inspection, or copying under chapter 42.56 RCW.

1 (b) Information contained in the medical marijuana authorization
2 database may be released in aggregate form, with all personally
3 identifying information redacted, for the purpose of statistical
4 analysis and oversight of agency performance and actions.

5 (c) Information contained in the medical marijuana authorization
6 database shall not be shared with the federal government or its
7 agents unless the particular patient or designated provider is
8 convicted in state court for violating this chapter or chapter 69.50
9 RCW.

10 (10)(a) The department must charge a one dollar fee for each
11 initial and renewal recognition card issued by a marijuana retailer
12 with a medical marijuana endorsement. The marijuana retailer with a
13 medical marijuana endorsement shall collect the fee from the
14 qualifying patient or designated provider at the time that he or she
15 is entered into the database and issued a recognition card. The
16 department shall establish a schedule for marijuana retailers with a
17 medical marijuana endorsement to remit the fees collected. Fees
18 collected under this subsection shall be deposited into the health
19 professions account created under RCW 43.70.320.

20 (b) By November 1, 2016, the department shall report to the
21 governor and the fiscal committees of both the house of
22 representatives and the senate regarding the cost of implementation
23 and administration of the medical marijuana authorization database.
24 The report must specify amounts from the health professions account
25 used to finance the establishment and administration of the medical
26 marijuana authorization database as well as estimates of the
27 continuing costs associated with operating the medical marijuana
28 database. The report must also provide initial enrollment figures in
29 the medical marijuana authorization database and estimates of
30 expected future enrollment.

31 (11) If the database administrator fails to comply with this
32 section, the department may cancel any contracts with the database
33 administrator and contract with another database administrator to
34 continue administration of the database. A database administrator who
35 fails to comply with this section is subject to a fine of up to five
36 thousand dollars in addition to any penalties established in the
37 contract. Fines collected under this section must be deposited into
38 the health professions account created under RCW 43.70.320.

39 (12) The department may adopt rules to implement this section.

1 NEW SECTION. **Sec. 22.** A new section is added to chapter 42.56
2 RCW to read as follows:

3 Records in the medical marijuana authorization database
4 established in section 21 of this act containing names and other
5 personally identifiable information of qualifying patients and
6 designated providers are exempt from disclosure under this chapter.

7 NEW SECTION. **Sec. 23.** A new section is added to chapter 69.51A
8 RCW to read as follows:

9 (1) It is unlawful for a person to knowingly or intentionally:

10 (a) Access the medical marijuana authorization database for any
11 reason not authorized under section 21 of this act;

12 (b) Disclose any information received from the medical marijuana
13 authorization database in violation of section 21 of this act
14 including, but not limited to, qualifying patient or designated
15 provider names, addresses, or amount of marijuana for which they are
16 authorized;

17 (c) Produce a recognition card or to tamper with a recognition
18 card for the purpose of having it accepted by a marijuana retailer
19 holding a medical marijuana endorsement in order to purchase
20 marijuana as a qualifying patient or designated provider or to grow
21 marijuana plants in accordance with this chapter;

22 (d) If a person is a designated provider to a qualifying patient,
23 sell, donate, or supply marijuana produced or obtained for the
24 qualifying patient to another person, or use the marijuana produced
25 or obtained for the qualifying patient for the designated provider's
26 own personal use or benefit; or

27 (e) If the person is a qualifying patient, sell, donate, or
28 otherwise supply marijuana produced or obtained by the qualifying
29 patient to another person.

30 (2) A person who violates this section is guilty of a class C
31 felony.

32 **Sec. 24.** RCW 69.51A.040 and 2011 c 181 s 401 are each amended to
33 read as follows:

34 The medical use of (~~cannabis~~) marijuana in accordance with the
35 terms and conditions of this chapter does not constitute a crime and
36 a qualifying patient or designated provider in compliance with the
37 terms and conditions of this chapter may not be arrested, prosecuted,
38 or subject to other criminal sanctions or civil consequences(~~(7)~~) for

1 possession, manufacture, or delivery of, or for possession with
 2 intent to manufacture or deliver, ~~((cannabis))~~ marijuana under state
 3 law, or have real or personal property seized or forfeited for
 4 possession, manufacture, or delivery of, or for possession with
 5 intent to manufacture or deliver, ~~((cannabis))~~ marijuana under state
 6 law, and investigating ~~((peace))~~ law enforcement officers and ~~((law~~
 7 ~~enforcement))~~ agencies may not be held civilly liable for failure to
 8 seize ~~((cannabis))~~ marijuana in this circumstance, if:

9 (1)(a) The qualifying patient or designated provider has been
 10 entered into the medical marijuana authorization database and holds a
 11 valid recognition card and possesses no more than ~~((fifteen cannabis~~
 12 ~~plants and:~~

13 ~~((i) No more than twenty-four ounces of useable cannabis;~~

14 ~~((ii) No more cannabis product than what could reasonably be~~
 15 ~~produced with no more than twenty-four ounces of useable cannabis; or~~

16 ~~((iii) A combination of useable cannabis and cannabis product that~~
 17 ~~does not exceed a combined total representing possession and~~
 18 ~~processing of no more than twenty-four ounces of useable cannabis))~~
 19 the amount of marijuana concentrates, useable marijuana, plants, or
 20 marijuana-infused products authorized under section 19 of this act.

21 ~~((b))~~ If a person is both a qualifying patient and a designated
 22 provider for another qualifying patient, the person may possess no
 23 more than twice the amounts described in ~~((a) of this subsection))~~
 24 section 19 of this act for the qualifying patient and designated
 25 provider, whether the plants, ~~((useable cannabis, and cannabis~~
 26 product)) marijuana concentrates, useable marijuana, or marijuana-
 27 infused products are possessed individually or in combination between
 28 the qualifying patient and his or her designated provider;

29 ~~((2))~~ (b) The qualifying patient or designated provider
 30 presents his or her ~~((proof of registration with the department of~~
 31 ~~health,))~~ recognition card to any ~~((peace))~~ law enforcement officer
 32 who questions the patient or provider regarding his or her medical
 33 use of ~~((cannabis))~~ marijuana;

34 ~~((3))~~ (c) The qualifying patient or designated provider keeps a
 35 copy of his or her ~~((proof of registration with the registry~~
 36 ~~established in section 901 of this act))~~ recognition card and the
 37 qualifying patient or designated provider's contact information
 38 posted prominently next to any ~~((cannabis))~~ plants, ~~((cannabis))~~
 39 marijuana concentrates, marijuana-infused products, or useable
 40 ~~((cannabis))~~ marijuana located at his or her residence;

1 (~~(4)~~) (d) The investigating (~~peace~~) law enforcement officer
2 does not possess evidence that:

3 (~~(a)~~) (i) The designated provider has converted (~~cannabis~~)
4 marijuana produced or obtained for the qualifying patient for his or
5 her own personal use or benefit; or

6 (~~(b)~~) (ii) The qualifying patient (~~has converted cannabis~~
7 ~~produced or obtained for his or her own medical use to the qualifying~~
8 ~~patient's personal, nonmedical use or benefit~~) sold, donated, or
9 supplied marijuana to another person; and

10 (~~(5)~~) (e) The (~~investigating peace officer does not possess~~
11 ~~evidence that the~~) designated provider has not served as a
12 designated provider to more than one qualifying patient within a
13 fifteen-day period; (~~and~~

14 ~~(6)~~) or

15 (2) The (~~investigating peace officer has not observed evidence~~
16 ~~of any of the circumstances identified in section 901(4)~~) qualifying
17 patient or designated provider participates in a cooperative as
18 provided in section 26 of this act.

19 **Sec. 25.** RCW 69.51A.043 and 2011 c 181 s 402 are each amended to
20 read as follows:

21 (1) A qualifying patient or designated provider who has a valid
22 authorization from his or her health care professional, but is not
23 (~~registered with the registry established in section 901 of this~~
24 ~~act~~) entered in the medical marijuana authorization database and
25 does not have a recognition card may raise the affirmative defense
26 set forth in subsection (2) of this section, if:

27 (a) The qualifying patient or designated provider presents his or
28 her (~~valid documentation to any peace~~) authorization to any law
29 enforcement officer who questions the patient or provider regarding
30 his or her medical use of (~~cannabis~~) marijuana;

31 (b) The qualifying patient or designated provider possesses no
32 more (~~cannabis~~) marijuana than the limits set forth in (~~RCW~~
33 ~~69.51A.040(1)~~) section 19(3) of this act;

34 (c) The qualifying patient or designated provider is in
35 compliance with all other terms and conditions of this chapter;

36 (d) The investigating (~~peace~~) law enforcement officer does not
37 have probable cause to believe that the qualifying patient or
38 designated provider has committed a felony, or is committing a

1 misdemeanor in the officer's presence, that does not relate to the
2 medical use of ~~((cannabis))~~ marijuana; and

3 (e) No outstanding warrant for arrest exists for the qualifying
4 patient or designated provider(~~(, and~~

5 ~~(f) The investigating peace officer has not observed evidence of~~
6 ~~any of the circumstances identified in section 901(4) of this act)).~~

7 (2) A qualifying patient or designated provider who is not
8 ~~((registered with the registry established in section 901 of this~~
9 ~~act))~~ entered in the medical marijuana authorization database and
10 does not have a recognition card, but who presents his or her ~~((valid~~
11 ~~documentation))~~ authorization to any ~~((peace))~~ law enforcement
12 officer who questions the patient or provider regarding his or her
13 medical use of ~~((cannabis))~~ marijuana, may assert an affirmative
14 defense to charges of violations of state law relating to
15 ~~((cannabis))~~ marijuana through proof at trial, by a preponderance of
16 the evidence, that he or she otherwise meets the requirements of RCW
17 69.51A.040. A qualifying patient or designated provider meeting the
18 conditions of this subsection but possessing more ~~((cannabis))~~
19 marijuana than the limits set forth in ~~((RCW 69.51A.040(1)))~~ section
20 19(3) of this act may, in the investigating ~~((peace))~~ law enforcement
21 officer's discretion, be taken into custody and booked into jail in
22 connection with the investigation of the incident.

23 NEW SECTION. Sec. 26. A new section is added to chapter 69.51A
24 RCW to read as follows:

25 (1) Qualifying patients or designated providers may form a
26 cooperative and share responsibility for acquiring and supplying the
27 resources needed to produce and process marijuana only for the
28 medical use of members of the cooperative. No more than four
29 qualifying patients or designated providers may become members of a
30 cooperative under this section and all members must hold valid
31 recognition cards. All members of the cooperative must be at least
32 twenty-one years old. The designated provider of a qualifying patient
33 who is under twenty-one years old may be a member of a cooperative on
34 the qualifying patient's behalf.

35 (2) Cooperatives may not be located within one mile of a
36 marijuana retailer. People who wish to form a cooperative must
37 register the location with the state liquor and cannabis board and
38 this is the only location where cooperative members may grow or
39 process marijuana. This registration must include the names of all

1 participating members and copies of each participant's recognition
 2 card. Only qualifying patients or designated providers registered
 3 with the state liquor and cannabis board in association with the
 4 location may participate in growing or receive useable marijuana or
 5 marijuana-infused products grown at that location. The state liquor
 6 and cannabis board must deny the registration of any cooperative if
 7 the location is within one mile of a marijuana retailer.

8 (3) If a qualifying patient or designated provider no longer
 9 participates in growing at the location, he or she must notify the
 10 state liquor and cannabis board within fifteen days of the date the
 11 qualifying patient or designated provider ceases participation. The
 12 state liquor and cannabis board must remove his or her name from
 13 connection to the cooperative. Additional qualifying patients or
 14 designated providers may not join the cooperative until sixty days
 15 have passed since the date on which the last qualifying patient or
 16 designated provider notifies the state liquor and cannabis board that
 17 he or she no longer participates in that cooperative.

18 (4) Qualifying patients or designated providers who participate
 19 in a cooperative under this section:

20 (a) May grow up to the total amount of plants for which each
 21 participating member is authorized on their recognition cards, up to
 22 a maximum of sixty plants. At the location, the qualifying patients
 23 or designated providers may possess the amount of useable marijuana
 24 that can be produced with the number of plants permitted under this
 25 subsection, but no more than seventy-two ounces;

26 (b) May only participate in one cooperative;

27 (c) May only grow plants in the cooperative and if he or she
 28 grows plants in the cooperative may not grow plants elsewhere;

29 (d) Must provide assistance in growing plants. A monetary
 30 contribution or donation is not to be considered assistance under
 31 this section. Participants must provide nonmonetary resources and
 32 labor in order to participate; and

33 (e) May not sell, donate, or otherwise provide marijuana,
 34 marijuana concentrates, useable marijuana, or marijuana-infused
 35 products to a person who is not participating under this section.

36 (5) The location of the cooperative must be the domicile of one
 37 of the participants. Only one cooperative may be located per property
 38 tax parcel. A copy of each participant's recognition card must be
 39 kept at the location at all times.

1 (6) The state liquor and cannabis board may adopt rules to
2 implement this section including:

3 (a) Any security requirements necessary to ensure the safety of
4 the cooperative and to reduce the risk of diversion from the
5 cooperative;

6 (b) A seed to sale traceability model that is similar to the seed
7 to sale traceability model used by licensees that will allow the
8 state liquor and cannabis board to track all marijuana grown in a
9 cooperative.

10 (7) The state liquor and cannabis board or law enforcement may
11 inspect a cooperative registered under this section to ensure members
12 are in compliance with this section. The state liquor and cannabis
13 board must adopt rules on reasonable inspection hours and reasons for
14 inspections.

15 NEW SECTION. **Sec. 27.** A new section is added to chapter 69.51A
16 RCW to read as follows:

17 (1) Notwithstanding any other provision of this chapter and even
18 if multiple qualifying patients or designated providers reside in the
19 same housing unit, no more than fifteen plants may be grown or
20 located in any one housing unit other than a cooperative established
21 pursuant to section 26 of this act.

22 (2) Neither the production nor processing of marijuana or
23 marijuana-infused products pursuant to this section nor the storage
24 or growing of plants may occur if any portion of such activity can be
25 readily seen by normal unaided vision or readily smelled from a
26 public place or the private property of another housing unit.

27 (3) Cities, towns, counties, and other municipalities may create
28 and enforce civil penalties, including abatement procedures, for the
29 growing or processing of marijuana and for keeping marijuana plants
30 beyond or otherwise not in compliance with this section.

31 NEW SECTION. **Sec. 28.** A new section is added to chapter 69.51A
32 RCW to read as follows:

33 (1) Once the state liquor and cannabis board adopts rules under
34 subsection (2) of this section, qualifying patients or designated
35 providers may only extract or separate the resin from marijuana or
36 produce or process any form of marijuana concentrates or
37 marijuana-infused products in accordance with those standards.

1 (2) The state liquor and cannabis board must adopt rules
 2 permitting qualifying patients and designated providers to extract or
 3 separate the resin from marijuana using noncombustible methods. The
 4 rules must provide the noncombustible methods permitted and any
 5 restrictions on this practice.

6 **Sec. 29.** RCW 69.51A.045 and 2011 c 181 s 405 are each amended to
 7 read as follows:

8 (1) A qualifying patient or designated provider in possession of
 9 ~~((cannabis))~~ plants, marijuana concentrates, useable ~~((cannabis))~~
 10 marijuana, or ~~((cannabis))~~ marijuana-infused products exceeding the
 11 limits set forth in ~~((RCW 69.51A.040(1)))~~ this chapter but otherwise
 12 in compliance with all other terms and conditions of this chapter may
 13 establish an affirmative defense to charges of violations of state
 14 law relating to ~~((cannabis))~~ marijuana through proof at trial, by a
 15 preponderance of the evidence, that the qualifying patient's
 16 necessary medical use exceeds the amounts set forth in RCW
 17 69.51A.040~~((1))~~.

18 (2) An investigating ~~((peace))~~ law enforcement officer may seize
 19 ~~((cannabis))~~ plants, marijuana concentrates, useable ~~((cannabis))~~
 20 marijuana, or ~~((cannabis))~~ marijuana-infused products exceeding the
 21 amounts set forth in ~~((RCW 69.51A.040(1): PROVIDED, That))~~ this
 22 chapter. In the case of ~~((cannabis))~~ plants, the qualifying patient
 23 or designated provider shall be allowed to select the plants that
 24 will remain at the location. The officer and his or her law
 25 enforcement agency may not be held civilly liable for failure to
 26 seize ~~((cannabis))~~ marijuana in this circumstance.

27 **Sec. 30.** RCW 69.51A.055 and 2011 c 181 s 1105 are each amended
 28 to read as follows:

29 (1)(a) The arrest and prosecution protections established in RCW
 30 69.51A.040 may not be asserted in a supervision revocation or
 31 violation hearing by a person who is supervised by a corrections
 32 agency or department, including local governments or jails, that has
 33 determined that the terms of this section are inconsistent with and
 34 contrary to his or her supervision.

35 (b) The affirmative defenses established in RCW 69.51A.043~~((7))~~
 36 and 69.51A.045~~((7, 69.51A.047, and section 407 of this act))~~ may not
 37 be asserted in a supervision revocation or violation hearing by a
 38 person who is supervised by a corrections agency or department,

1 including local governments or jails, that has determined that the
 2 terms of this section are inconsistent with and contrary to his or
 3 her supervision.

4 (2) (~~The provisions of~~) RCW 69.51A.040(~~(, 69.51A.085, and~~
 5 ~~69.51A.025 de)~~) does not apply to a person who is supervised for a
 6 criminal conviction by a corrections agency or department, including
 7 local governments or jails, that has determined that the terms of
 8 this chapter are inconsistent with and contrary to his or her
 9 supervision.

10 (~~(3) A person may not be licensed as a licensed producer,~~
 11 ~~licensed processor of cannabis products, or a licensed dispenser~~
 12 ~~under section 601, 602, or 701 of this act if he or she is supervised~~
 13 ~~for a criminal conviction by a corrections agency or department,~~
 14 ~~including local governments or jails, that has determined that~~
 15 ~~licensure is inconsistent with and contrary to his or her~~
 16 ~~supervision.))~~

17 **Sec. 31.** RCW 69.51A.060 and 2011 c 181 s 501 are each amended to
 18 read as follows:

19 (1) It shall be a class 3 civil infraction to use or display
 20 medical (~~(cannabis))~~ marijuana in a manner or place which is open to
 21 the view of the general public.

22 (2) Nothing in this chapter establishes a right of care as a
 23 covered benefit or requires any state purchased health care as
 24 defined in RCW 41.05.011 or other health carrier or health plan as
 25 defined in Title 48 RCW to be liable for any claim for reimbursement
 26 for the medical use of (~~(cannabis))~~ marijuana. Such entities may
 27 enact coverage or noncoverage criteria or related policies for
 28 payment or nonpayment of medical (~~(cannabis))~~ marijuana in their sole
 29 discretion.

30 (3) Nothing in this chapter requires any health care professional
 31 to authorize the medical use of (~~(cannabis))~~ marijuana for a patient.

32 (4) Nothing in this chapter requires any accommodation of any on-
 33 site medical use of (~~(cannabis))~~ marijuana in any place of
 34 employment, in any school bus or on any school grounds, in any youth
 35 center, in any correctional facility, or smoking (~~(cannabis))~~
 36 marijuana in any public place or hotel or motel. However, a school
 37 may permit a minor who meets the requirements of section 20 of this
 38 act to consume marijuana on school grounds. Such use must be in

1 accordance with school policy relating to medication use on school
 2 grounds.

3 (5) Nothing in this chapter authorizes the possession or use of
 4 marijuana, marijuana concentrates, useable marijuana, or marijuana-
 5 infused products on federal property.

6 ~~((45))~~ (6) Nothing in this chapter authorizes the use of medical
 7 ~~((cannabis))~~ marijuana by any person who is subject to the Washington
 8 code of military justice in chapter 38.38 RCW.

9 ~~((46))~~ (7) Employers may establish drug-free work policies.
 10 Nothing in this chapter requires an accommodation for the medical use
 11 of ~~((cannabis))~~ marijuana if an employer has a drug-free workplace.

12 ~~((47) It is a class C felony to fraudulently produce any record~~
 13 ~~purporting to be, or tamper with the content of any record for the~~
 14 ~~purpose of having it accepted as, valid documentation under RCW~~
 15 ~~69.51A.010(32)(a), or to backdate such documentation to a time~~
 16 ~~earlier than its actual date of execution.))~~

17 (8) No person shall be entitled to claim the protection from
 18 arrest and prosecution under RCW 69.51A.040 or the affirmative
 19 defense under RCW 69.51A.043 for engaging in the medical use of
 20 ~~((cannabis))~~ marijuana in a way that endangers the health or well-
 21 being of any person through the use of a motorized vehicle on a
 22 street, road, or highway, including violations of RCW 46.61.502 or
 23 46.61.504, or equivalent local ordinances.

24 **Sec. 32.** RCW 69.51A.085 and 2011 c 181 s 403 are each amended to
 25 read as follows:

26 (1) Qualifying patients may create and participate in collective
 27 gardens for the purpose of producing, processing, transporting, and
 28 delivering ~~((cannabis))~~ marijuana for medical use subject to the
 29 following conditions:

30 (a) No more than ten qualifying patients may participate in a
 31 single collective garden at any time;

32 (b) No person under the age of twenty-one may participate in a
 33 collective garden or receive marijuana that was produced, processed,
 34 transported, or delivered through a collective garden. A designated
 35 provider for a person who is under the age of twenty-one may
 36 participate in a collective garden on behalf of the person under the
 37 age of twenty-one;

38 (c) A collective garden may contain no more than fifteen plants
 39 per patient up to a total of forty-five plants;

1 ~~((+e))~~ (d) A collective garden may contain no more than twenty-
 2 four ounces of useable ~~((cannabis))~~ marijuana per patient up to a
 3 total of seventy-two ounces of useable ~~((cannabis))~~ marijuana;

4 ~~((+d))~~ (e) A copy of each qualifying patient's ~~((valid~~
 5 ~~documentation or proof of registration with the registry established~~
 6 ~~in section 901 of this act))~~ authorization, including a copy of the
 7 patient's proof of identity, must be available at all times on the
 8 premises of the collective garden; and

9 ~~((+e))~~ (f) No useable ~~((cannabis))~~ marijuana from the collective
 10 garden is delivered to anyone other than one of the qualifying
 11 patients participating in the collective garden.

12 (2) For purposes of this section, the creation of a "collective
 13 garden" means qualifying patients sharing responsibility for
 14 acquiring and supplying the resources required to produce and process
 15 cannabis for medical use such as, for example, a location for a
 16 collective garden; equipment, supplies, and labor necessary to plant,
 17 grow, and harvest ~~((cannabis; cannabis))~~ marijuana plants, seeds, and
 18 cuttings; and equipment, supplies, and labor necessary for proper
 19 construction, plumbing, wiring, and ventilation of a garden of
 20 ~~((cannabis))~~ marijuana plants.

21 (3) A person who knowingly violates a provision of subsection (1)
 22 of this section is not entitled to the protections of this chapter.

23 NEW SECTION. Sec. 33. A new section is added to chapter 69.50
 24 RCW to read as follows:

25 (1) The state liquor and cannabis board may conduct controlled
 26 purchase programs to determine whether:

27 (a) A marijuana retailer is unlawfully selling marijuana to
 28 persons under the age of twenty-one;

29 (b) A marijuana retailer holding a medical marijuana endorsement
 30 is selling to persons under the age of eighteen or selling to persons
 31 between the ages of eighteen and twenty-one who do not hold valid
 32 recognition cards;

33 (c) Until July 1, 2016, collective gardens under RCW 69.51A.085
 34 are providing marijuana to persons under the age of twenty-one; or

35 (d) A cooperative organized under section 26 of this act is
 36 permitting a person under the age of twenty-one to participate.

37 (2) Every person under the age of twenty-one years who purchases
 38 or attempts to purchase marijuana is guilty of a violation of this
 39 section. This section does not apply to:

1 (a) Persons between the ages of eighteen and twenty-one who hold
 2 valid recognition cards and purchase marijuana at a marijuana retail
 3 outlet holding a medical marijuana endorsement;

4 (b) Persons between the ages of eighteen and twenty-one years who
 5 are participating in a controlled purchase program authorized by the
 6 state liquor and cannabis board under rules adopted by the board.
 7 Violations occurring under a private, controlled purchase program
 8 authorized by the state liquor and cannabis board may not be used for
 9 criminal or administrative prosecution.

10 (3) A marijuana retailer who conducts an in-house controlled
 11 purchase program authorized under this section shall provide his or
 12 her employees a written description of the employer's in-house
 13 controlled purchase program. The written description must include
 14 notice of actions an employer may take as a consequence of an
 15 employee's failure to comply with company policies regarding the sale
 16 of marijuana during an in-house controlled purchase program.

17 (4) An in-house controlled purchase program authorized under this
 18 section shall be for the purposes of employee training and employer
 19 self-compliance checks. A marijuana retailer may not terminate an
 20 employee solely for a first-time failure to comply with company
 21 policies regarding the sale of marijuana during an in-house
 22 controlled purchase program authorized under this section.

23 (5) Every person between the ages of eighteen and twenty-one who
 24 is convicted of a violation of this section is guilty of a
 25 misdemeanor punishable as provided by RCW 9A.20.021.

26 **Sec. 34.** RCW 69.51A.100 and 2011 c 181 s 404 are each amended to
 27 read as follows:

28 (1) A qualifying patient may revoke his or her designation of a
 29 specific designated provider and designate a different designated
 30 provider at any time. A revocation of designation must be in writing,
 31 signed and dated, and provided to the designated provider and, if
 32 applicable, the medical marijuana authorization database
 33 administrator. The protections of this chapter cease to apply to a
 34 person who has served as a designated provider to a qualifying
 35 patient seventy-two hours after receipt of that patient's revocation
 36 of his or her designation.

37 (2) A person may stop serving as a designated provider to a given
 38 qualifying patient at any time by revoking that designation in
 39 writing, signed and dated, and provided to the qualifying patient

1 and, if applicable, the medical marijuana authorization database
 2 administrator. However, that person may not begin serving as a
 3 designated provider to a different qualifying patient until fifteen
 4 days have elapsed from the date the last qualifying patient
 5 designated him or her to serve as a provider.

6 (3) The department may adopt rules to implement this section,
 7 including a procedure to remove the name of the designated provider
 8 from the medical marijuana authorization database upon receipt of a
 9 revocation under this section.

10 NEW SECTION. **Sec. 35.** A new section is added to chapter 69.51A
 11 RCW to read as follows:

12 Neither this chapter nor chapter 69.50 RCW prohibits a health
 13 care professional from selling or donating topical, noningestible
 14 products that have a THC concentration of less than .3 percent to
 15 qualifying patients.

16 ****NEW SECTION.*** **Sec. 36.** A new section is added to chapter 69.51A
 17 RCW to read as follows:

18 ***Employers of a health care professional may not prohibit or limit***
 19 ***the authority of any health care professional to:***

20 ***(1) Advise a patient about the risks and benefits of the medical***
 21 ***use of marijuana or that the patient may benefit from the medical use***
 22 ***of marijuana; or***

23 ***(2) Provide a patient or designated provider meeting the criteria***
 24 ***established under RCW 69.51A.010 with an authorization, based upon***
 25 ***the health care professional's assessment of the patient's medical***
 26 ***history and current medical condition, if the health care***
 27 ***professional has complied with this chapter and he or she determines***
 28 ***within a professional standard of care or in the individual health***
 29 ***care professional's medical judgment the qualifying patient may***
 30 ***benefit from the medical use of marijuana.***

**Sec. 36 was vetoed. See message at end of chapter.*

31 NEW SECTION. **Sec. 37.** A new section is added to chapter 69.51A
 32 RCW to read as follows:

33 A medical marijuana consultant certificate is hereby established.

34 (1) In addition to any other authority provided by law, the
 35 secretary of the department may:

1 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary
2 to implement this chapter;
3 (b) Establish forms and procedures necessary to administer this
4 chapter;
5 (c) Approve training or education programs that meet the
6 requirements of this section and any rules adopted to implement it;
7 (d) Receive criminal history record information that includes
8 nonconviction information data for any purpose associated with
9 initial certification or renewal of certification. The secretary
10 shall require each applicant for initial certification to obtain a
11 state or federal criminal history record information background check
12 through the state patrol or the state patrol and the identification
13 division of the federal bureau of investigation prior to the issuance
14 of any certificate. The secretary shall specify those situations
15 where a state background check is inadequate and an applicant must
16 obtain an electronic fingerprint-based national background check
17 through the state patrol and federal bureau of investigation.
18 Situations where a background check is inadequate may include
19 instances where an applicant has recently lived out-of-state or where
20 the applicant has a criminal record in Washington;
21 (e) Establish administrative procedures, administrative
22 requirements, and fees in accordance with RCW 43.70.110 and
23 43.70.250; and
24 (f) Maintain the official department record of all applicants and
25 certificate holders.
26 (2) A training or education program approved by the secretary
27 must include the following topics:
28 (a) The medical conditions that constitute terminal or
29 debilitating conditions, and the symptoms of those conditions;
30 (b) Short and long-term effects of cannabinoids;
31 (c) Products that may benefit qualifying patients based on the
32 patient's terminal or debilitating medical condition;
33 (d) Risks and benefits of various routes of administration;
34 (e) Safe handling and storage of useable marijuana, marijuana-
35 infused products, and marijuana concentrates, including strategies to
36 reduce access by minors;
37 (f) Demonstrated knowledge of this chapter and the rules adopted
38 to implement it; and
39 (g) Other subjects deemed necessary and appropriate by the
40 secretary to ensure medical marijuana consultant certificate holders

1 are able to provide evidence-based and medically accurate advice on
2 the medical use of marijuana.

3 (3) Medical marijuana consultant certificates are subject to
4 annual renewals and continuing education requirements established by
5 the secretary.

6 (4) The secretary shall have the power to refuse, suspend, or
7 revoke the certificate of any medical marijuana consultant upon proof
8 that:

9 (a) The certificate was procured through fraud,
10 misrepresentation, or deceit;

11 (b) The certificate holder has committed acts in violation of
12 subsection (6) of this section; or

13 (c) The certificate holder has violated or has permitted any
14 employee or volunteer to violate any of the laws of this state
15 relating to drugs or controlled substances or has been convicted of a
16 felony.

17 In any case of the refusal, suspension, or revocation of a
18 certificate by the secretary under the provisions of this chapter,
19 appeal may be taken in accordance with chapter 34.05 RCW, the
20 administrative procedure act.

21 (5) A medical marijuana consultant may provide the following
22 services when acting as an owner, employee, or volunteer of a retail
23 outlet licensed under RCW 69.50.354 and holding a medical marijuana
24 endorsement under section 10 of this act:

25 (a) Assisting a customer with the selection of products sold at
26 the retail outlet that may benefit the qualifying patient's terminal
27 or debilitating medical condition;

28 (b) Describing the risks and benefits of products sold at the
29 retail outlet;

30 (c) Describing the risks and benefits of methods of
31 administration of products sold at the retail outlet;

32 (d) Advising a customer about the safe handling and storage of
33 useable marijuana, marijuana-infused products, and marijuana
34 concentrates, including strategies to reduce access by minors; and

35 (e) Providing instruction and demonstrations to customers about
36 proper use and application of useable marijuana, marijuana-infused
37 products, and marijuana concentrates.

38 (6) Nothing in this section authorizes a medical marijuana
39 consultant to:

1 (a) Offer or undertake to diagnose or cure any human disease,
2 ailment, injury, infirmity, deformity, pain, or other condition,
3 physical or mental, real or imaginary, by use of marijuana or any
4 other means or instrumentality; or

5 (b) Recommend or suggest modification or elimination of any
6 course of treatment that does not involve the medical use of
7 marijuana.

8 (7) Nothing in this section requires an owner, employee, or
9 volunteer of a retail outlet licensed under RCW 69.50.354 and holding
10 a medical marijuana endorsement under section 10 of this act to
11 obtain a medical marijuana consultant certification.

12 (8) Nothing in this section applies to the practice of a health
13 care profession by individuals who are licensed, certified, or
14 registered in a profession listed in RCW 18.130.040(2) and who are
15 performing services within their authorized scope of practice.

16 NEW SECTION. **Sec. 38.** A new section is added to chapter 69.51A
17 RCW to read as follows:

18 The board of naturopathy, the board of osteopathic medicine and
19 surgery, the medical quality assurance commission, and the nursing
20 care quality assurance commission shall develop and approve
21 continuing education programs related to the use of marijuana for
22 medical purposes for the health care providers that they each
23 regulate that are based upon practice guidelines that have been
24 adopted by each entity.

25 **Sec. 39.** RCW 43.70.320 and 2008 c 134 s 16 are each amended to
26 read as follows:

27 (1) There is created in the state treasury an account to be known
28 as the health professions account. All fees received by the
29 department for health professions licenses, registration,
30 certifications, renewals, or examinations and the civil penalties
31 assessed and collected by the department under RCW 18.130.190 shall
32 be forwarded to the state treasurer who shall credit such moneys to
33 the health professions account.

34 (2) All expenses incurred in carrying out the health professions
35 licensing activities of the department and implementing and
36 administering the medical marijuana authorization database
37 established in section 21 of this act shall be paid from the account
38 as authorized by legislative appropriation, except as provided in

1 subsection (4) of this section. Any residue in the account shall be
 2 accumulated and shall not revert to the general fund at the end of
 3 the biennium.

4 (3) The secretary shall biennially prepare a budget request based
 5 on the anticipated costs of administering the health professions
 6 licensing activities of the department which shall include the
 7 estimated income from health professions fees.

8 (4) The secretary shall, at the request of a board or commission
 9 as applicable, spend unappropriated funds in the health professions
 10 account that are allocated to the requesting board or commission to
 11 meet unanticipated costs of that board or commission when revenues
 12 exceed more than fifteen percent over the department's estimated
 13 six-year spending projections for the requesting board or commission.
 14 Unanticipated costs shall be limited to spending as authorized in
 15 subsection (3) of this section for anticipated costs.

16 NEW SECTION. **Sec. 40.** A new section is added to chapter 82.04
 17 RCW to read as follows:

18 (1) This chapter does not apply to any cooperative in respect to
 19 growing marijuana, or manufacturing marijuana concentrates, useable
 20 marijuana, or marijuana-infused products, as those terms are defined
 21 in RCW 69.50.101.

22 (2) The tax preference authorized in this section is not subject
 23 to the provisions of RCW 82.32.805 and 82.32.808.

24 NEW SECTION. **Sec. 41.** (1) The department of health must develop
 25 recommendations on establishing medical marijuana specialty clinics
 26 that would allow for the authorization and dispensing of marijuana to
 27 patients of health care professionals who work on-site of the clinic
 28 and who are certified by the department of health in the medical use
 29 of marijuana.

30 (2) Recommendations must be reported to the chairs of the health
 31 care committees of both the senate and house of representatives by
 32 December 1, 2015.

33 ***Sec. 42. RCW 69.50.203 and 2013 c 19 s 88 are each amended to**
 34 **read as follows:**

35 (a) Except as provided in subsection (c) of this section, the
 36 commission shall place a substance in Schedule I upon finding that
 37 the substance:

- 1 (1) has high potential for abuse;
- 2 (2) has no currently accepted medical use in treatment in the
- 3 United States; and
- 4 (3) lacks accepted safety for use in treatment under medical
- 5 supervision.
- 6 (b) The commission may place a substance in Schedule I without
- 7 making the findings required by subsection (a) of this section if the
- 8 substance is controlled under Schedule I of the federal Controlled
- 9 Substances Act by a federal agency as the result of an international
- 10 treaty, convention, or protocol.
- 11 (c) No marijuana concentrates, useable marijuana, or marijuana-
- 12 infused product that the department has identified in rules adopted
- 13 pursuant to section 10(4) of this act as appropriate for sale to
- 14 qualifying patients and designated providers in a retail outlet that
- 15 holds a medical marijuana endorsement shall be deemed to have met the
- 16 criteria established in subsection (a) of this section and may not be
- 17 placed in Schedule I.

*Sec. 42 was vetoed. See message at end of chapter.

18 *Sec. 43. RCW 69.50.204 and 2010 c 177 s 2 are each amended to
19 read as follows:

20 Unless specifically excepted by state or federal law or
21 regulation or more specifically included in another schedule, the
22 following controlled substances are listed in Schedule I:

23 (a) Any of the following opiates, including their isomers,
24 esters, ethers, salts, and salts of isomers, esters, and ethers
25 whenever the existence of these isomers, esters, ethers, and salts is
26 possible within the specific chemical designation:

- 27 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-
- 28 piperidinyl]-N-phenylacetamide);
- 29 (2) Acetylmethadol;
- 30 (3) Allylprodine;
- 31 (4) Alphacetylmethadol, except levo-alphacetylmethadol, also
- 32 known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
- 33 (5) Alphameprodine;
- 34 (6) Alphamethadol;
- 35 (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)
- 36 ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-
- 37 propanilido) piperidine);

- 1 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
- 2 piperidinyl]-N-phenylpropanamide);
- 3 (9) Benzethidine;
- 4 (10) Betacetylmethadol;
- 5 (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-
- 6 piperidinyl]-N-phenylpropanamide);
- 7 (12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-
- 8 [1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-
- 9 phenylpropanamide;
- 10 (13) Betameprodine;
- 11 (14) Betamethadol;
- 12 (15) Betaprodine;
- 13 (16) Clonitazene;
- 14 (17) Dextromoramide;
- 15 (18) Diampromide;
- 16 (19) Diethylthiambutene;
- 17 (20) Difenoxin;
- 18 (21) Dimenoxadol;
- 19 (22) Dimepheptanol;
- 20 (23) Dimethylthiambutene;
- 21 (24) Dioxaphetyl butyrate;
- 22 (25) Dipipanone;
- 23 (26) Ethylmethylthiambutene;
- 24 (27) Etonitazene;
- 25 (28) Etoxeridine;
- 26 (29) Furethidine;
- 27 (30) Hydroxypethidine;
- 28 (31) Ketobemidone;
- 29 (32) Levomoramide;
- 30 (33) Levophenacylmorphane;
- 31 (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
- 32 piperidyl]-N-phenylprop anamide);
- 33 (35) 3-Methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-
- 34 piperidinyl]-N-phenylpropanamide);
- 35 (36) Morpheridine;
- 36 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 37 (38) Noracymethadol;
- 38 (39) Norlevorphanol;
- 39 (40) Normethadone;
- 40 (41) Norpipanone;

- 1 (42) *Para-fluorofentanyl* (*N*-(4-fluorophenyl)-*N*-[1-(2-phenethyl)-4-piperidinyl] propanamide);
- 2
- 3 (43) *PEPAP* (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 4 (44) *Phenadoxone*;
- 5 (45) *Phenampromide*;
- 6 (46) *Phenomorphane*;
- 7 (47) *Phenoperidine*;
- 8 (48) *Piritramide*;
- 9 (49) *Proheptazine*;
- 10 (50) *Propiridine*;
- 11 (51) *Propiram*;
- 12 (52) *Racemoramide*;
- 13 (53) *Thiofentanyl* (*N*-phenyl-*N*-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- 14
- 15 (54) *Tilidine*;
- 16 (55) *Trimeperidine*.
- 17 (b) *Opium derivatives*. Unless specifically excepted or unless
- 18 listed in another schedule, any of the following opium derivatives,
- 19 including their salts, isomers, and salts of isomers whenever the
- 20 existence of those salts, isomers, and salts of isomers is possible
- 21 within the specific chemical designation:
- 22 (1) *Acetorphine*;
- 23 (2) *Acetyldihydrocodeine*;
- 24 (3) *Benzylmorphine*;
- 25 (4) *Codeine methylbromide*;
- 26 (5) *Codeine-N-Oxide*;
- 27 (6) *Cyprenorphine*;
- 28 (7) *Desomorphine*;
- 29 (8) *Dihydromorphine*;
- 30 (9) *Drotebanol*;
- 31 (10) *Etorphine*, except hydrochloride salt;
- 32 (11) *Heroin*;
- 33 (12) *Hydromorphanol*;
- 34 (13) *Methyldesorphine*;
- 35 (14) *Methyldihydromorphine*;
- 36 (15) *Morphine methylbromide*;
- 37 (16) *Morphine methylsulfonate*;
- 38 (17) *Morphine-N-Oxide*;
- 39 (18) *Myrophine*;
- 40 (19) *Nicocodeine*;

1 (20) Nicomorphine;

2 (21) Normorphine;

3 (22) Pholcodine;

4 (23) Thebacon.

5 (c) Hallucinogenic substances. Unless specifically excepted or
6 unless listed in another schedule, any material, compound, mixture,
7 or preparation which contains any quantity of the following
8 hallucinogenic substances, including their salts, isomers, and salts
9 of isomers whenever the existence of those salts, isomers, and salts
10 of isomers is possible within the specific chemical designation. For
11 the purposes of this subsection only, the term "isomer" includes the
12 optical, position, and geometric isomers:

13 (1) Alpha-ethyltryptamine: Some trade or other names:
14 Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)
15 indole; a-ET; and AET;

16 (2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names:
17 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;

18 (3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other
19 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
20 DOB; 2C-B, nexus;

21 (4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-
22 dimethoxy-a-methylphenethylamine; 2,5-DMA;

23 (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);

24 (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name:
25 2C-T-7;

26 (7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-
27 methylphenethylamine; paramethoxyamphetamine, PMA;

28 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;

29 (9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other
30 names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and
31 "STP";

32 (10) 3,4-methylenedioxy amphetamine;

33 (11) 3,4-methylenedioxymethamphetamine (MDMA);

34 (12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-
35 ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA,
36 MDE, MDEA;

37 (13) N-hydroxy-3,4-methylenedioxyamphetamine also known as
38 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy
39 MDA;

40 (14) 3,4,5-trimethoxy amphetamine;

- 1 (15) Alpha-methyltryptamine: Other name: AMT;
- 2 (16) Bufotenine: Some trade or other names: 3-(beta-
- 3 Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-
- 4 indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine;
- 5 mappine;
- 6 (17) Diethyltryptamine: Some trade or other names: N,N-
- 7 Diethyltryptamine; DET;
- 8 (18) Dimethyltryptamine: Some trade or other names: DMT;
- 9 (19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;
- 10 (20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,
- 11 7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2)
- 12 azepino (5,4-b) indole; Tabernanthe iboga;
- 13 (21) Lysergic acid diethylamide;
- 14 (22) Marihuana or marijuana, except for any marijuana
- 15 concentrates, useable marijuana, or marijuana-infused products
- 16 identified by the department in rules adopted pursuant to section
- 17 10(4) of this act as appropriate for sale to qualifying patients and
- 18 designated providers in a retail outlet that holds a medical
- 19 marijuana endorsement;
- 20 (23) Mescaline;
- 21 (24) Paraheyl-7374: Some trade or other names: 3-Hexyl-1-
- 22 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-
- 23 dibenzo[b,d]pyran; synhexyl;
- 24 (25) Peyote, meaning all parts of the plant presently classified
- 25 botanically as Lophophora Williamsii Lemaire, whether growing or not,
- 26 the seeds thereof, any extract from any part of such plant, and every
- 27 compound, manufacture, salts, derivative, mixture, or preparation of
- 28 such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812
- 29 (c), Schedule I (c) (12));
- 30 (26) N-ethyl-3-piperidyl benzilate;
- 31 (27) N-methyl-3-piperidyl benzilate;
- 32 (28) Psilocybin;
- 33 (29) Psilocyn;
- 34 (30) (i) Tetrahydrocannabinols, meaning tetrahydrocannabinols
- 35 naturally contained in a plant of the genus Cannabis (cannabis
- 36 plant), as well as synthetic equivalents of the substances contained
- 37 in the plant, or in the resinous extractives of Cannabis, species,
- 38 and/or synthetic substances, derivatives, and their isomers with
- 39 similar chemical structure and pharmacological activity such as the
- 40 following:

1 ((~~(i)~~)) (A) 1 - cis - or trans tetrahydrocannabinol, and their
 2 optical isomers, excluding tetrahydrocannabinol in sesame oil and
 3 encapsulated in a soft gelatin capsule in a drug product approved by
 4 the United States Food and Drug Administration;

5 ((~~(ii)~~)) (B) 6 - cis - or trans tetrahydrocannabinol, and their
 6 optical isomers;

7 ((~~(iii)~~)) (C) 3,4 - cis - or trans tetrahydrocannabinol, and its
 8 optical isomers;

9 (Since nomenclature of these substances is not internationally
 10 standardized, compounds of these structures, regardless of numerical
 11 designation of atomic positions covered.)

12 (ii) The term "tetrahydrocannabinols" does not include any
 13 marijuana concentrates, useable marijuana, or marijuana-infused
 14 products identified by the department in rules adopted pursuant to
 15 section 10(4) of this act as appropriate for sale to qualifying
 16 patients and designated providers in a retail outlet that holds a
 17 medical marijuana endorsement;

18 (31) Ethylamine analog of phencyclidine: Some trade or other
 19 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)
 20 ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

21 (32) Pyrrolidine analog of phencyclidine: Some trade or other
 22 names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

23 (33) Thiophene analog of phencyclidine: Some trade or other
 24 names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienylanalog of
 25 phencyclidine; TPCP; TCP;

26 (34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other
 27 name is TCPy.

28 (d) Depressants. Unless specifically excepted or unless listed in
 29 another schedule, any material, compound, mixture, or preparation
 30 which contains any quantity of the following substances having a
 31 depressant effect on the central nervous system, including its salts,
 32 isomers, and salts of isomers whenever the existence of such salts,
 33 isomers, and salts of isomers is possible within the specific
 34 chemical designation.

35 (1) Gamma-hydroxybutyric acid: Some other names include GHB;
 36 gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid;
 37 sodium oxybate; sodium oxybutyrate;

38 (2) Mecloqualone;

39 (3) Methaqualone.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenyl-2-oxazolamine;

(2) N-Benzylpiperazine: Some other names: BZP, 1-benzylpiperazine;

(3) Cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(4) Fenethylamine;

(5) Methcathinone: Some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(6) (+-)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(7) N-ethylamphetamine;

(8) N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

*Sec. 43 was vetoed. See message at end of chapter.

*NEW SECTION. Sec. 44. A new section is added to chapter 69.50 RCW to read as follows:

(1) It is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, marijuana concentrates, useable marijuana, and marijuana-infused products identified by the department in rules adopted pursuant to section 10(4) of this act as appropriate for sale to qualifying patients and designated providers in a retail outlet that holds a medical marijuana endorsement, except:

(a) As those activities are associated with the lawful operation as a licensed marijuana producer, processor, retailer, or retailer with a medical marijuana endorsement in compliance with this chapter and chapter 69.51A RCW;

1 (b) In association with the lawful operation of a cooperative
2 established pursuant to, and operating in compliance with, section 26
3 of this act;

4 (c) Until July 1, 2016, in association with the lawful operation
5 of a collection garden established pursuant to, and operating in
6 compliance with RCW 69.51A.085; or

7 (d) As the activities of a designated provider or qualifying
8 patient support the personal, medical use of a qualifying patient in
9 compliance with section 27 of this act.

10 (2) Any person who violates this section is guilty of a class B
11 felony.

*Sec. 44 was vetoed. See message at end of chapter.

12 *NEW SECTION. Sec. 45. A new section is added to chapter 69.50
13 RCW to read as follows:

14 (1) It is unlawful for any person to possess marijuana
15 concentrates, useable marijuana, and marijuana-infused products
16 identified by the department in rules adopted pursuant to section
17 10(4) of this act as appropriate for sale to qualifying patients and
18 designated providers in a retail outlet that holds a medical
19 marijuana endorsement, unless:

20 (a) It is obtained and possessed by a designated provider or
21 qualifying patient in an amount that does not exceed those authorized
22 in section 19 of this act and the substance is obtained from:

23 (i) A licensed marijuana retailer or retailer with a medical
24 marijuana endorsement operating in compliance with this chapter and
25 chapter 69.51A RCW;

26 (ii) A cooperative established pursuant to, and operating in
27 compliance with, section 26 of this act;

28 (iii) Until July 1, 2016, a collective garden established
29 pursuant to, and operating in compliance with RCW 69.51A.085; or

30 (iv) The designated provider or qualifying patient in compliance
31 with section 27 of this act; or

32 (b) It is obtained and possessed by a person in an amount that
33 does not exceed those authorized in RCW 69.50.360 and was obtained
34 from a licensed marijuana retailer or retailer with a medical
35 marijuana endorsement operating in compliance with this chapter.

36 (2) Any person who violates this section is guilty of a class C
37 felony.

*Sec. 45 was vetoed. See message at end of chapter.

*Sec. 46. RCW 9.94A.518 and 2003 c 53 s 57 are each amended to read as follows:

TABLE 4

DRUG OFFENSES
INCLUDED WITHIN EACH
SERIOUSNESS LEVEL

III Any felony offense under chapter
69.50 RCW with a deadly weapon
special verdict under RCW
9.94A.602

Controlled Substance Homicide
(RCW 69.50.415)

Delivery of imitation controlled
substance by person eighteen or
over to person under eighteen
(RCW 69.52.030(2))

Involving a minor in drug dealing
(RCW 69.50.4015)

Manufacture of methamphetamine
(RCW 69.50.401(2)(b))

Over 18 and deliver heroin,
methamphetamine, a narcotic
from Schedule I or II, or
flunitrazepam from Schedule IV
to someone under 18 (RCW
69.50.406)

Over 18 and deliver narcotic from
Schedule III, IV, or V or a
nonnarcotic, except
flunitrazepam or
methamphetamine, from
Schedule I-V to someone under
18 and 3 years junior (RCW
69.50.406)

1 *Possession of Ephedrine,*
2 *Pseudoephedrine, or Anhydrous*
3 *Ammonia with intent to*
4 *manufacture*
5 *methamphetamine (RCW*
6 *69.50.440)*
7 *Selling for profit (controlled or*
8 *counterfeit) any controlled*
9 *substance (RCW 69.50.410)*
10 *II Create, deliver, or possess a*
11 *counterfeit controlled substance*
12 *(RCW 69.50.4011)*
13 *Deliver or possess with intent to*
14 *deliver methamphetamine (RCW*
15 *69.50.401(2)(b))*
16 *Delivery of a material in lieu of a*
17 *controlled substance (RCW*
18 *69.50.4012)*
19 *Maintaining a Dwelling or Place for*
20 *Controlled Substances (RCW*
21 *69.50.402(1)(f))*
22 *Manufacture, deliver, or possess with*
23 *intent to deliver amphetamine*
24 *(RCW 69.50.401(2)(b))*
25 *Manufacture, deliver, or possess with*
26 *intent to deliver narcotics from*
27 *Schedule I or II or flunitrazepam*
28 *from Schedule IV (RCW*
29 *69.50.401(2)(a))*
30 *Manufacture, deliver, or possess with*
31 *intent to deliver narcotics from*
32 *Schedule III, IV, or V or*
33 *nonnarcotics from Schedule I-V*
34 *(except marijuana, amphetamine,*
35 *methamphetamines, or*
36 *flunitrazepam) (RCW*
37 *69.50.401(2) (c) through (e))*

1 *Manufacture, distribute, or possess*
2 *with intent to distribute an*
3 *imitation controlled substance*
4 *(RCW 69.52.030(1))*

5 *I Forged Prescription (RCW 69.41.020)*

6 *Forged Prescription for a Controlled*
7 *Substance (RCW 69.50.403)*

8 *Manufacture, deliver, or possess with*
9 *intent to deliver marijuana (RCW*
10 *69.50.401(2)(c))*

11 *Manufacture, deliver, or possess with*
12 *intent to deliver marijuana*
13 *pursuant to section 44 of this act*

14 *Possesses marijuana pursuant to*
15 *section 45 of this act*

16 *Possess Controlled Substance that is a*
17 *Narcotic from Schedule III, IV,*
18 *or V or Nonnarcotic from*
19 *Schedule I-V (RCW 69.50.4013)*

20 *Possession of Controlled Substance*
21 *that is either heroin or narcotics*
22 *from Schedule I or II (RCW*
23 *69.50.4013)*

24 *Unlawful Use of Building for Drug*
25 *Purposes (RCW 69.53.010)*

**Sec. 46 was vetoed. See message at end of chapter.*

26 NEW SECTION. **Sec. 47.** All references to the Washington state
27 liquor control board must be construed as referring to the Washington
28 state liquor and cannabis board. The code reviser must prepare
29 legislation for the 2016 legislative session changing all references
30 in the Revised Code of Washington from the Washington state liquor
31 control board to the Washington state liquor and cannabis board.

32 NEW SECTION. **Sec. 48.** The following acts or parts of acts are
33 each repealed:

1 (1) RCW 69.51A.020 (Construction of chapter) and 2011 c 181 s 103
2 & 1999 c 2 s 3;

3 (2) RCW 69.51A.025 (Construction of chapter—Compliance with RCW
4 69.51A.040) and 2011 c 181 s 413;

5 (3) RCW 69.51A.047 (Failure to register or present valid
6 documentation—Affirmative defense) and 2011 c 181 s 406;

7 (4) RCW 69.51A.070 (Addition of medical conditions) and 2007 c
8 371 s 7 & 1999 c 2 s 9;

9 (5) RCW 69.51A.090 (Applicability of valid documentation
10 definition) and 2010 c 284 s 5;

11 (6) RCW 69.51A.140 (Counties, cities, towns—Authority to adopt
12 and enforce requirements) and 2011 c 181 s 1102; and

13 (7) RCW 69.51A.200 (Evaluation) and 2011 c 181 s 1001.

14 NEW SECTION. **Sec. 49.** RCW 69.51A.085 (Collective gardens) and
15 2015 c ... s 32 (section 32 of this act) and 2011 c 181 s 403 are
16 each repealed.

17 NEW SECTION. **Sec. 50.** Sections 12, 19, 20, 23 through 26, 31,
18 35, 40, and 49 of this act take effect July 1, 2016.

19 NEW SECTION. **Sec. 51.** Sections 21, 22, 32, and 33 of this act
20 are necessary for the immediate preservation of the public health, or
21 safety, or support of the state government and its existing public
22 institutions, and take effect immediately.

23 ***NEW SECTION.** **Sec. 52.** *This act takes effect on the dates*
24 *provided in sections 50 and 51 of this act if House Bill No. 2136, or*
25 *any subsequent version of House Bill No. 2136, is enacted into law by*
26 *October 1, 2015.*

**Sec. 52 was vetoed. See message at end of chapter.*

Passed by the Senate April 14, 2015.

Passed by the House April 10, 2015.

Approved by the Governor April 24, 2015, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 25, 2015.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 36,
42, 43, 44, 45, 46, and 52, Second Substitute Senate Bill No. 5052
entitled:

"AN ACT Relating to establishing the cannabis patient protection act.

After tremendous deliberation, compromise and hard work from our outstanding bipartisan sponsors and co-sponsors, committee chairs and ranking members from both houses, we have a measure that will create a medical marijuana system that works for our state.

I am committed to ensuring a system that serves patients well and makes medicine available in a safe and accessible manner, just like we would do for any medicine. That's what this bill strives to provide. It will help families of patients in real need.

As significant an accomplishment as this bill is for our state — and for patients to be ensured of having a safe place to get medicine they need — I know some remain concerned. These perspectives are important and compelling. I recognize the solution is not perfect. However, I do think this is far better than today's wholly unregulated system.

We will have options for patients and a system of strong enforcement to ensure public safety, especially for children. It is a good thing that this bill allows immediate enforcement of dispensaries to ensure they are not selling marijuana to kids.

I want to be clear that I am committed to implementing this law effectively by ensuring cooperatives are safe for patients in need, not sources of illicit diversion in our communities. To this end, I have directed the Liquor Control Board to work with the Attorney General's Office and local law enforcement to consider all options to ensure patient and public safety.

I also want to reassure you that the Department of Health will create an authorization form that will continue to honor the doctor-patient relationship.

While this bill takes a tremendous step forward, a large volume remains of unfinished work on marijuana tax policy, enforcement, local revenue sharing and funding for public health prevention programs. I strongly support efforts to address these items — and call on legislators to finish the job and provide the tools necessary to ensure a well-regulated and functioning marijuana market in our state.

I am vetoing the following sections:

Section 36. This section prohibits employers of health care providers from limiting medical marijuana recommendations to patients. This is an employment law provision that may cause confusion and potential unintended consequences. This section was added without adequate input.

The sponsors of this legislation have also requested this provision be vetoed to allow time for further discussion to develop appropriate policy.

Sections 42 and 43. These sections remove from Schedule I of our state's Controlled Substances Act any medical marijuana product. This is a laudable idea and I appreciate the intent to reduce the stigma of medical marijuana by rescheduling it from a Schedule I — an illegal — controlled substance to something more appropriate. However, our state's rescheduling system has very limited effect, and rescheduling just medicinal marijuana — not the entire cannabis plant and derivatives — may cause serious problems such as having the

unintended effect of limiting the types of marijuana that are considered medicine. To that end, I have instructed the Department of Health to thoroughly consider this idea in consultation with medical professionals and stakeholders, and bring an appropriate resolution to me and the Legislature by next year. Furthermore, I will continue to advocate for the federal government to consider a national rescheduling solution, which may be most beneficial, considering the limited power that state rescheduling has in this respect.

Sections 44, 45 and 46. These sections create new felonies in our criminal code. Washington state does not need additional criminal penalties related to medical marijuana. Moreover, these sections were added as part of the same amendment that created sections 42 and 43 that would have rescheduled medical marijuana. Because I have vetoed sections 42 and 43, sections 44, 45, and 46 are also unnecessary.

Section 52. This section makes Senate Bill 5052 contingent on the enactment of some version of House Bill 2136 by October 1, 2015. This contingent effective date causes confusion and potentially conflicts with other effective dates in Senate Bill 5052. In addition, if the Legislature is unable to pass a version of House Bill 2136, the Code Reviser's Office has advised me that this provision acts as a null and void clause, in which case we risk jeopardizing the integrity of the system created in this bill. I strongly agree with the need for additional policy and administrative changes to ensure a well-regulated and functioning marijuana market. However, this bill should not be made contingent on those changes.

For these reasons I have vetoed Sections 36, 42, 43, 44, 45, 46, and 52 of Second Substitute Senate Bill No. 5052.

With the exception of Sections 36, 42, 43, 44, 45, 46, and 52, Second Substitute Senate Bill No. 5052 is approved."

Attachment 5

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2136

Chapter 4, Laws of 2015

64th Legislature
2015 2nd Special Session

MARIJUANA--REFORMS--TAXATION

EFFECTIVE DATE: 7/1/2015 - Except Section 503, Part V which becomes effective 10/1/2015; Sections 203 and 1001, which become effective 7/1/2016; and Sections 302, 503, 901, 1204, and 1601 and Part XV which become effective 7/24/15.

Passed by the House June 26, 2015
Yeas 59 Nays 38

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate June 27, 2015
Yeas 36 Nays 7

BRAD OWEN

President of the Senate

Approved June 30, 2015 3:58 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2136** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

June 30, 2015

**Secretary of State
State of Washington**

1 while continuing efforts towards disbanding the unregulated marijuana
2 markets. The legislature further finds that ongoing evaluation on the
3 impact of meaningful marijuana tax reform for the purpose of
4 stabilizing revenues is crucial to the overall effort of protecting
5 the citizens and resources of this state. The legislature further
6 finds that a partnership with local jurisdictions in this effort is
7 imperative to the success of the legislature's policy objective. The
8 legislature further finds that sharing revenues to promote a
9 successful partnership in achieving the legislature's intent should
10 be transparent and hold local jurisdictions accountable for their use
11 of state shared revenues. Therefore, the legislature intends to
12 reform the current tax structure for the regulated legal marijuana
13 system to create price parity with the large medical and illicit
14 markets with the specific objective of increasing the market share of
15 the legal and highly regulated marijuana market. The legislature
16 further intends to share marijuana tax revenues with local
17 jurisdictions for public safety purposes and to facilitate the
18 ongoing process of ensuring a safe regulated marijuana market in all
19 communities across the state.

20 (b) The legislature further finds marijuana use for qualifying
21 patients is a valid and necessary option health care professionals
22 may recommend for their patients. The legislature further finds that
23 while recognizing the difference between recreational and medical use
24 of marijuana, it is also imperative to distinguish that the
25 authorization for medical use of marijuana is different from a valid
26 prescription provided by a doctor to a patient. The legislature
27 further finds the authorization for medical use of marijuana is
28 unlike over-the-counter medications that require no oversight by a
29 health care professional. The legislature further finds that due to
30 the unique characterization of authorizations for the medical use of
31 marijuana, the policy of providing a tax preference benefit for
32 patients using an authorization should in no way be construed as
33 precedent for changes in the treatment of prescription medications or
34 over-the-counter medications. Therefore, the legislature intends to
35 provide qualifying patients and their designated providers a retail
36 sales and use tax exemption on marijuana purchased or obtained for
37 medical use when authorized by a health care professional.

38 (2)(a) This subsection is the tax preference performance
39 statement for the retail sales and use tax exemption for marijuana
40 purchased or obtained by qualifying patients or their designated

1 providers provided in sections 207(1) and 208(1) of this act. The
 2 performance statement is only intended to be used for subsequent
 3 evaluation of the tax preference. It is not intended to create a
 4 private right of action by any party or be used to determine
 5 eligibility for preferential tax treatment.

6 (b) The legislature categorizes the tax preference as one
 7 intended to accomplish the general purposes indicated in RCW
 8 82.32.808(2)(e).

9 (c) It is the legislature's specific public policy objective to
 10 provide qualifying patients and their designated providers a retail
 11 sales and use tax exemption on marijuana purchased or obtained for
 12 medical use when authorized by a health care professional.

13 (d) To measure the effectiveness of the exemption provided in
 14 this act in achieving the specific public policy objective described
 15 in (c) of this subsection, the department of revenue must provide the
 16 necessary data and assistance to the state liquor and cannabis board
 17 for the report required in RCW 69.50.535.

18 PART II

19 Marijuana Excise Tax, Exemptions, and Distribution of Revenues

20 **Sec. 201.** RCW 69.50.334 and 2013 c 3 s 7 are each amended to
 21 read as follows:

22 (1) The action, order, or decision of the state liquor
 23 ((control)) and cannabis board as to any denial of an application for
 24 the reissuance of a license to produce, process, or sell marijuana,
 25 or as to any revocation, suspension, or modification of any license
 26 to produce, process, or sell marijuana, ((shall)) or as to the
 27 administrative review of a notice of unpaid trust fund taxes under
 28 section 202 of this act, must be an adjudicative proceeding and
 29 subject to the applicable provisions of chapter 34.05 RCW.

30 ((+1)) (2) An opportunity for a hearing may be provided to an
 31 applicant for the reissuance of a license prior to the disposition of
 32 the application, and if no opportunity for a prior hearing is
 33 provided then an opportunity for a hearing to reconsider the
 34 application must be provided the applicant.

35 ((+2)) (3) An opportunity for a hearing must be provided to a
 36 licensee prior to a revocation or modification of any license and,
 37 except as provided in subsection ((+4)) (6) of this section, prior
 38 to the suspension of any license.

1 ~~((+3))~~ (4) An opportunity for a hearing must be provided to any
 2 person issued a notice of unpaid trust fund taxes under section 202
 3 of this act.

4 (5) No hearing ~~((shall))~~ may be required under this section until
 5 demanding by the applicant ~~((or))~~ , licensee, or person issued a notice
 6 of unpaid trust fund taxes under section 202 of this act.

7 ~~((+4))~~ (6) The state liquor ~~((control))~~ and cannabis board may
 8 summarily suspend a license for a period of up to one hundred eighty
 9 days without a prior hearing if it finds that public health, safety,
 10 or welfare imperatively require emergency action, and it incorporates
 11 a finding to that effect in its order. Proceedings for revocation or
 12 other action must be promptly instituted and determined. An
 13 administrative law judge may extend the summary suspension period for
 14 up to one calendar year from the first day of the initial summary
 15 suspension in the event the proceedings for revocation or other
 16 action cannot be completed during the initial one hundred eighty-day
 17 period due to actions by the licensee. The state liquor ~~((control))~~
 18 and cannabis board's enforcement division shall complete a
 19 preliminary staff investigation of the violation before requesting an
 20 emergency suspension by the state liquor ~~((control))~~ and cannabis
 21 board.

22 **NEW SECTION. Sec. 202.** A new section is added to chapter 69.50
 23 RCW under the subchapter heading "article V" to read as follows:

24 (1) Whenever the board determines that a limited liability
 25 business entity has collected trust fund taxes and has failed to
 26 remit those taxes to the board and that business entity has been
 27 terminated, dissolved, or abandoned, or is insolvent, the board may
 28 pursue collection of the entity's unpaid trust fund taxes, including
 29 penalties on those taxes, against any or all of the responsible
 30 individuals. For purposes of this subsection, "insolvent" means the
 31 condition that results when the sum of the entity's debts exceeds the
 32 fair market value of its assets. The board may presume that an entity
 33 is insolvent if the entity refuses to disclose to the board the
 34 nature of its assets and liabilities.

35 (2)(a) For a responsible individual who is the current or a
 36 former chief executive or chief financial officer, liability under
 37 this section applies regardless of fault or whether the individual
 38 was or should have been aware of the unpaid trust fund tax liability
 39 of the limited liability business entity.

1 (b) For any other responsible individual, liability under this
 2 section applies only if he or she willfully failed to pay or to cause
 3 to be paid to the board the trust fund taxes due from the limited
 4 liability business entity.

5 (3)(a) Except as provided in this subsection (3)(a), a
 6 responsible individual who is the current or a former chief executive
 7 or chief financial officer is liable under this section only for
 8 trust fund tax liability accrued during the period that he or she was
 9 the chief executive or chief financial officer. However, if the
 10 responsible individual had the responsibility or duty to remit
 11 payment of the limited liability business entity's trust fund taxes
 12 to the board during any period of time that the person was not the
 13 chief executive or chief financial officer, that individual is also
 14 liable for trust fund tax liability that became due during the period
 15 that he or she had the duty to remit payment of the limited liability
 16 business entity's taxes to the board but was not the chief executive
 17 or chief financial officer.

18 (b) All other responsible individuals are liable under this
 19 section only for trust fund tax liability that became due during the
 20 period he or she had the responsibility or duty to remit payment of
 21 the limited liability business entity's taxes to the board.

22 (4) Persons described in subsection (3)(b) of this section are
 23 exempt from liability under this section in situations where
 24 nonpayment of the limited liability business entity's trust fund
 25 taxes was due to reasons beyond their control as determined by the
 26 board by rule.

27 (5) Any person having been issued a notice of unpaid trust fund
 28 taxes under this section is entitled to an administrative hearing
 29 under RCW 69.50.334 and any such rules the board may adopt.

30 (6) This section does not relieve the limited liability business
 31 entity of its trust fund tax liability or otherwise impair other tax
 32 collection remedies afforded by law.

33 (7) The definitions in this subsection apply throughout this
 34 section unless the context clearly requires otherwise.

35 (a) "Board" means the state liquor and cannabis board.

36 (b) "Chief executive" means: The president of a corporation or
 37 for other entities or organizations other than corporations or if the
 38 corporation does not have a president as one of its officers, the
 39 highest ranking executive manager or administrator in charge of the
 40 management of the company or organization.

1 (c) "Chief financial officer" means: The treasurer of a
2 corporation or for entities or organizations other than corporations
3 or if a corporation does not have a treasurer as one of its officers,
4 the highest senior manager who is responsible for overseeing the
5 financial activities of the entire company or organization.

6 (d) "Limited liability business entity" means a type of business
7 entity that generally shields its owners from personal liability for
8 the debts, obligations, and liabilities of the entity, or a business
9 entity that is managed or owned in whole or in part by an entity that
10 generally shields its owners from personal liability for the debts,
11 obligations, and liabilities of the entity. Limited liability
12 business entities include corporations, limited liability companies,
13 limited liability partnerships, trusts, general partnerships and
14 joint ventures in which one or more of the partners or parties are
15 also limited liability business entities, and limited partnerships in
16 which one or more of the general partners are also limited liability
17 business entities.

18 (e) "Manager" has the same meaning as in RCW 25.15.005.

19 (f) "Member" has the same meaning as in RCW 25.15.005, except
20 that the term only includes members of member-managed limited
21 liability companies.

22 (g) "Officer" means any officer or assistant officer of a
23 corporation, including the president, vice president, secretary, and
24 treasurer.

25 (h)(i) "Responsible individual" includes any current or former
26 officer, manager, member, partner, or trustee of a limited liability
27 business entity with unpaid trust fund tax liability.

28 (ii) "Responsible individual" also includes any current or former
29 employee or other individual, but only if the individual had the
30 responsibility or duty to remit payment of the limited liability
31 business entity's unpaid trust fund tax liability.

32 (iii) Whenever any taxpayer has one or more limited liability
33 business entities as a member, manager, or partner, "responsible
34 individual" also includes any current and former officers, members,
35 or managers of the limited liability business entity or entities or
36 of any other limited liability business entity involved directly in
37 the management of the taxpayer. For purposes of this subsection
38 (7)(h)(iii), "taxpayer" means a limited liability business entity
39 with unpaid trust fund taxes.

1 (i) "Trust fund taxes" means taxes collected from buyers and
2 deemed held in trust under RCW 69.50.535.

3 (j) "Willfully failed to pay or to cause to be paid" means that
4 the failure was the result of an intentional, conscious, and
5 voluntary course of action.

6 **Sec. 203.** RCW 69.50.357 and 2015 c 70 s 12 are each amended to
7 read as follows:

8 (1) Retail outlets (~~((shall sell no))~~) may not sell products or
9 services other than marijuana concentrates, useable marijuana,
10 marijuana-infused products, or paraphernalia intended for the storage
11 or use of marijuana concentrates, useable marijuana, or marijuana-
12 infused products.

13 (2) Licensed marijuana retailers (~~((shall))~~) may not employ persons
14 under twenty-one years of age or allow persons under twenty-one years
15 of age to enter or remain on the premises of a retail outlet.
16 However, qualifying patients between eighteen and twenty-one years of
17 age with a recognition card may enter and remain on the premises of a
18 retail outlet holding a medical marijuana endorsement and may
19 purchase products for their personal medical use. Qualifying patients
20 who are under the age of eighteen with a recognition card and who
21 accompany their designated providers may enter and remain on the
22 premises of a retail outlet holding a medical marijuana endorsement,
23 but may not purchase products for their personal medical use.

24 (3)(a) Licensed marijuana retailers must ensure that all
25 employees are trained on the rules adopted to implement this chapter,
26 identification of persons under the age of twenty-one, and other
27 requirements adopted by the state liquor and cannabis board to ensure
28 that persons under the age of twenty-one are not permitted to enter
29 or remain on the premises of a retail outlet.

30 (b) Licensed marijuana retailers with a medical marijuana
31 endorsement must ensure that all employees are trained on the
32 subjects required by (a) of this subsection as well as identification
33 of authorizations and recognition cards. Employees must also be
34 trained to permit qualifying patients who hold recognition cards and
35 are between the ages of eighteen and twenty-one to enter the premises
36 and purchase marijuana for their personal medical use and to permit
37 qualifying patients who are under the age of eighteen with a
38 recognition card to enter the premises if accompanied by their
39 designated providers.

1 (4) Licensed marijuana retailers (~~((shall))~~) may not display any
 2 signage (~~((in a window, on a door, or on the outside of the premises~~
 3 ~~of a retail outlet that is visible to the general public from a~~
 4 ~~public right-of-way, other than a single sign no larger than one~~
 5 ~~thousand six hundred square inches identifying the retail outlet by~~
 6 ~~the licensee's business or trade name. Retail outlets that hold~~
 7 ~~medical marijuana endorsements may include this information on~~
 8 ~~signage.~~

9 ~~((5))~~ Licensed marijuana retailers shall not display marijuana
 10 concentrates, useable marijuana, or marijuana-infused products in a
 11 manner that is visible to the general public from a public right-of-
 12 way.

13 ~~((6))~~) outside of the licensed premises, other than two signs
 14 identifying the retail outlet by the licensee's business or trade
 15 name. Each sign must be no larger than one thousand six hundred
 16 square inches, be permanently affixed to a building or other
 17 structure, and be posted not less than one thousand feet from any
 18 elementary school, secondary school, or playground.

19 (5) No licensed marijuana retailer or employee of a retail outlet
 20 (~~((shall))~~) may open or consume, or allow to be opened or consumed, any
 21 marijuana concentrates, useable marijuana, or marijuana-infused
 22 product on the outlet premises.

23 (~~((7))~~) (6) The state liquor and cannabis board (~~((shall))~~) must
 24 fine a licensee one thousand dollars for each violation of any
 25 subsection of this section. Fines collected under this section must
 26 be deposited into the dedicated marijuana (~~((fund))~~) account created
 27 under RCW 69.50.530.

28 **Sec. 204.** RCW 69.50.369 and 2013 c 3 s 18 are each amended to
 29 read as follows:

30 (1) No licensed marijuana producer, processor, researcher, or
 31 retailer (~~((shall))~~) may place or maintain, or cause to be placed or
 32 maintained, an advertisement of marijuana, useable marijuana,
 33 marijuana concentrates, or a marijuana-infused product in any form or
 34 through any medium whatsoever:

35 (a) Within one thousand feet of the perimeter of a school
 36 grounds, playground, recreation center or facility, child care
 37 center, public park, or library, or any game arcade admission to
 38 which is not restricted to persons aged twenty-one years or older;

1 (b) On or in a public transit vehicle or public transit shelter;
2 or

3 (c) On or in a publicly owned or operated property.

4 (2) Merchandising within a retail outlet is not advertising for
5 the purposes of this section.

6 (3) This section does not apply to a noncommercial message.

7 (4) The state liquor ~~((control))~~ and cannabis board ~~((shall))~~
8 must fine a licensee one thousand dollars for each violation of
9 subsection (1) of this section. Fines collected under this subsection
10 must be deposited into the dedicated marijuana ~~((fund))~~ account
11 created under RCW 69.50.530.

12 **Sec. 205.** RCW 69.50.535 and 2014 c 192 s 7 are each amended to
13 read as follows:

14 ~~((There is levied and collected a marijuana excise tax equal~~
15 ~~to twenty-five percent of the selling price on each wholesale sale in~~
16 ~~this state of marijuana by a licensed marijuana producer to a~~
17 ~~licensed marijuana processor or another licensed marijuana producer.~~
18 ~~This tax is the obligation of the licensed marijuana producer.~~

19 ~~((2)) There is levied and collected a marijuana excise tax equal to~~
20 ~~twenty-five percent of the selling price on each wholesale sale in~~
21 ~~this state of marijuana concentrates, useable marijuana, and~~
22 ~~marijuana-infused products by a licensed marijuana processor to a~~
23 ~~licensed marijuana retailer. This tax is the obligation of the~~
24 ~~licensed marijuana processor.~~

25 ~~((3))~~ (a) There is levied and collected a marijuana excise tax
26 equal to ~~((twenty-five))~~ thirty-seven percent of the selling price on
27 each retail sale in this state of marijuana concentrates, useable
28 marijuana, and marijuana-infused products. This tax is ~~((the~~
29 ~~obligation of the licensed marijuana retailer, is))~~ separate and in
30 addition to general state and local sales and use taxes that apply to
31 retail sales of tangible personal property, and is not part of the
32 total retail price to which general state and local sales and use
33 taxes apply. The tax must be separately itemized from the state and
34 local retail sales tax on the sales receipt provided to the buyer.

35 (b) The tax levied in this section must be reflected in the price
36 list or quoted shelf price in the licensed marijuana retail store and
37 in any advertising that includes prices for all useable marijuana,
38 marijuana concentrates, or marijuana-infused products.

1 ~~((+4))~~ (2) All revenues collected from the marijuana excise
 2 ~~((taxes)) tax~~ imposed under ~~((subsections (1) through (3) of))~~ this
 3 section ~~((shall))~~ must be deposited each day in ~~((a depository~~
 4 ~~approved by the state treasurer and transferred to the state~~
 5 ~~treasurer to be credited to))~~ the dedicated marijuana ~~((fund))~~
 6 account.

7 ~~((+5))~~ (3) The ~~((state liquor control board shall))~~ tax imposed
 8 in this section must be paid by the buyer to the seller. Each seller
 9 must collect from the buyer the full amount of the tax payable on
 10 each taxable sale. The tax collected as required by this section is
 11 deemed to be held in trust by the seller until paid to the board. If
 12 any seller fails to collect the tax imposed in this section or,
 13 having collected the tax, fails to pay it as prescribed by the board,
 14 whether such failure is the result of the seller's own acts or the
 15 result of acts or conditions beyond the seller's control, the seller
 16 is, nevertheless, personally liable to the state for the amount of
 17 the tax.

18 (4) The definitions in this subsection apply throughout this
 19 section unless the context clearly requires otherwise.

20 (a) "Board" means the state liquor and cannabis board.

21 (b) "Retail sale" has the same meaning as in RCW 82.08.010.

22 (c) "Selling price" has the same meaning as in RCW 82.08.010,
 23 except that when product is sold under circumstances where the total
 24 amount of consideration paid for the product is not indicative of its
 25 true value, "selling price" means the true value of the product sold.

26 (d) "Product" means marijuana, marijuana concentrates, useable
 27 marijuana, and marijuana-infused products.

28 (e) "True value" means market value based on sales at comparable
 29 locations in this state of the same or similar product of like
 30 quality and character sold under comparable conditions of sale to
 31 comparable purchasers. However, in the absence of such sales of the
 32 same or similar product, true value means the value of the product
 33 sold as determined by all of the seller's direct and indirect costs
 34 attributable to the product.

35 (5)(a) The board must regularly review the tax level~~((s))~~
 36 established under this section and make recommendations, in
 37 consultation with the department of revenue, to the legislature as
 38 appropriate regarding adjustments that would further the goal of
 39 discouraging use while undercutting illegal market prices.

1 **(b) The state liquor and cannabis board must report, in**
 2 **compliance with RCW 43.01.036, to the appropriate committees of the**
 3 **legislature every two years. The report at a minimum must include the**
 4 **following:**

5 **(i) The specific recommendations required under (a) of this**
 6 **subsection;**

7 **(ii) A comparison of gross sales and tax collections prior to and**
 8 **after any marijuana tax change;**

9 **(iii) The increase or decrease in the volume of legal marijuana**
 10 **sold prior to and after any marijuana tax change;**

11 **(iv) Increases or decreases in the number of licensed marijuana**
 12 **producers, processors, and retailers;**

13 **(v) The number of illegal and noncompliant marijuana outlets the**
 14 **board requires to be closed;**

15 **(vi) Gross marijuana sales and tax collections in Oregon; and**

16 **(vii) The total amount of reported sales and use taxes exempted**
 17 **for qualifying patients. The department of revenue must provide the**
 18 **data of exempt amounts to the board.**

19 **(c) The board is not required to report to the legislature as**
 20 **required in (b) of this subsection after January 1, 2025.**

21 **(6) The legislature does not intend and does not authorize any**
 22 **person or entity to engage in activities or to conspire to engage in**
 23 **activities that would constitute per se violations of state and**
 24 **federal antitrust laws including, but not limited to, agreements**
 25 **among retailers as to the selling price of any goods sold.**

26 **Sec. 206.** RCW 69.50.540 and 2013 c 3 s 28 are each amended to
 27 read as follows:

28 **((All marijuana excise taxes collected from sales of marijuana,**
 29 **useable marijuana, and marijuana-infused products under RCW**
 30 **69.50.535, and the license fees, penalties, and forfeitures derived**
 31 **under chapter 3, Laws of 2013 from marijuana producer, marijuana**
 32 **processor, and marijuana retailer licenses shall every three months**
 33 **be disbursed by the state liquor control board as follows:**

34 **(1)) The legislature must annually appropriate moneys in the**
 35 **dedicated marijuana account created in RCW 69.50.530 as follows:**

36 **(1) For the purposes listed in this subsection (1), the**
 37 **legislature must appropriate to the respective agencies amounts**
 38 **sufficient to make the following expenditures on a quarterly basis:**

1 (a) Beginning July 1, 2015, one hundred twenty-five thousand
2 dollars to the department of social and health services to design and
3 administer the Washington state healthy youth survey, analyze the
4 collected data, and produce reports, in collaboration with the office
5 of the superintendent of public instruction, department of health,
6 department of commerce, family policy council, and state liquor
7 ~~((control))~~ and cannabis board. The survey ~~((shall))~~ must be
8 conducted at least every two years and include questions regarding,
9 but not necessarily limited to, academic achievement, age at time of
10 substance use initiation, antisocial behavior of friends, attitudes
11 toward antisocial behavior, attitudes toward substance use, laws and
12 community norms regarding antisocial behavior, family conflict,
13 family management, parental attitudes toward substance use, peer
14 rewarding of antisocial behavior, perceived risk of substance use,
15 and rebelliousness. Funds disbursed under this subsection may be used
16 to expand administration of the healthy youth survey to student
17 populations attending institutions of higher education in Washington;
18 ~~((+2+))~~ (b) Beginning July 1, 2015, fifty thousand dollars to the
19 department of social and health services for the purpose of
20 contracting with the Washington state institute for public policy to
21 conduct the cost-benefit evaluation and produce the reports described
22 in RCW 69.50.550. This appropriation ~~((shall))~~ ends after production
23 of the final report required by RCW 69.50.550;
24 ~~((+3+))~~ (c) Beginning July 1, 2015, five thousand dollars to the
25 University of Washington alcohol and drug abuse institute for the
26 creation, maintenance, and timely updating of web-based public
27 education materials providing medically and scientifically accurate
28 information about the health and safety risks posed by marijuana use;
29 ~~((+4+))~~ (d) An amount not ~~((exceeding))~~ less than one million two
30 hundred fifty thousand dollars to the state liquor ~~((control board as~~
31 ~~is necessary for administration of chapter 3, Laws of 2013,~~
32 ~~(5) Of the funds remaining after the disbursements identified in~~
33 ~~subsections (1) through (4) of this section)) and cannabis board for~~
34 ~~administration of this chapter as appropriated in the omnibus~~
35 ~~appropriations act;~~
36 (e) Twenty-three thousand seven hundred fifty dollars to the
37 department of enterprise services provided solely for the state
38 building code council established under RCW 19.27.070, to develop and
39 adopt fire and building code provisions related to marijuana

1 processing and extraction facilities. The distribution under this
 2 subsection (1)(e) is for fiscal year 2016 only;

3 (2) From the amounts in the dedicated marijuana account after
 4 appropriation of the amounts identified in subsection (1) of this
 5 section, the legislature must appropriate for the purposes listed in
 6 this subsection (2) as follows:

7 (a) (~~(Fifteen percent)~~) (i) Up to fifteen percent to the
 8 department of social and health services division of behavioral
 9 health and recovery for ((implementation and maintenance)) the
 10 development, implementation, maintenance, and evaluation of programs
 11 and practices aimed at the prevention or reduction of maladaptive
 12 substance use, substance-use disorder, substance abuse or substance
 13 dependence, as these terms are defined in the Diagnostic and
 14 Statistical Manual of Mental Disorders, among middle school and high
 15 school age students, whether as an explicit goal of a given program
 16 or practice or as a consistently corresponding effect of its
 17 implementation, mental health services for children and youth, and
 18 services for pregnant and parenting women; PROVIDED, That:

19 (~~((i))~~) (A) Of the funds ((disbursed)) appropriated under (a)(i)
 20 of this subsection for new programs and new services, at least
 21 eighty-five percent must be directed to evidence-based ((and cost-
 22 beneficial)) or research-based programs and practices that produce
 23 objectively measurable results and, by September 1, 2020, are cost-
 24 beneficial; and

25 (~~((ii))~~) (B) Up to fifteen percent of the funds ((disbursed))
 26 appropriated under (a)(i) of this subsection for new programs and new
 27 services may be directed to ((research-based and)) proven and tested
 28 practices, emerging best practices, or promising practices.

29 (ii) In deciding which programs and practices to fund, the
 30 secretary of the department of social and health services ((shall))
 31 must consult, at least annually, with the University of Washington's
 32 social development research group and the University of Washington's
 33 alcohol and drug abuse institute.

34 (iii) For the fiscal year beginning July 1, 2016, and each
 35 subsequent fiscal year, the legislature must appropriate a minimum of
 36 twenty-five million five hundred thirty-six thousand dollars under
 37 this subsection (2)(a);

38 (b) (~~(Ten percent)~~) (i) Up to ten percent to the department of
 39 health for the following, subject to (b)(ii) of this subsection (2):

1 (A) Creation, implementation, operation, and management of a
 2 marijuana education and public health program that contains the
 3 following:

4 ~~((+i+))~~ (I) A marijuana use public health hotline that provides
 5 referrals to substance abuse treatment providers, utilizes evidence-
 6 based or research-based public health approaches to minimizing the
 7 harms associated with marijuana use, and does not solely advocate an
 8 abstinence-only approach;

9 ~~((+ii+))~~ (II) A grants program for local health departments or
 10 other local community agencies that supports development and
 11 implementation of coordinated intervention strategies for the
 12 prevention and reduction of marijuana use by youth; and

13 ~~((+iii+))~~ (III) Media-based education campaigns across
 14 television, internet, radio, print, and out-of-home advertising,
 15 separately targeting youth and adults, that provide medically and
 16 scientifically accurate information about the health and safety risks
 17 posed by marijuana use; and

18 (B) The Washington poison control center.

19 (ii) For the fiscal year beginning July 1, 2016, and each
 20 subsequent fiscal year, the legislature must appropriate a minimum of
 21 nine million seven hundred fifty thousand dollars under this
 22 subsection (2)(b);

23 (c)(i) Up to six-tenths of one percent to the University of
 24 Washington and four-tenths of one percent to Washington State
 25 University for research on the short and long-term effects of
 26 marijuana use, to include but not be limited to formal and informal
 27 methods for estimating and measuring intoxication and impairment, and
 28 for the dissemination of such research.

29 (ii) For the fiscal year beginning July 1, 2016, and each
 30 subsequent fiscal year, the legislature must appropriate a minimum of
 31 one million twenty-one thousand dollars to the University of
 32 Washington and a minimum of six hundred eighty-one thousand dollars
 33 to Washington State University under this subsection (2)(c);

34 (d) Fifty percent to the state basic health plan trust account to
 35 be administered by the Washington basic health plan administrator and
 36 used as provided under chapter 70.47 RCW;

37 (e) Five percent to the Washington state health care authority to
 38 be expended exclusively through contracts with community health
 39 centers to provide primary health and dental care services, migrant

1 health services, and maternity health care services as provided under
2 RCW 41.05.220;

3 (f)(i) Up to three-tenths of one percent to the office of the
4 superintendent of public instruction to fund grants to building
5 bridges programs under chapter 28A.175 RCW.

6 (ii) For the fiscal year beginning July 1, 2016, and each
7 subsequent fiscal year, the legislature must appropriate a minimum of
8 five hundred eleven thousand dollars to the office of the
9 superintendent of public instruction under this subsection (2)(f);
10 and

11 (g) ((The remainder to the general fund.)) At the end of each
12 fiscal year, the treasurer must transfer any amounts in the dedicated
13 marijuana account that are not appropriated pursuant to subsection
14 (1) of this section and this subsection (2) into the general fund,
15 except as provided in (g)(i) of this subsection (2).

16 (i) Beginning in fiscal year 2018, if marijuana excise tax
17 collections deposited into the general fund in the prior fiscal year
18 exceed twenty-five million dollars, then each fiscal year the
19 legislature must appropriate an amount equal to thirty percent of all
20 marijuana excise taxes deposited into the general fund the prior
21 fiscal year to the treasurer for distribution to counties, cities,
22 and towns as follows:

23 (A) Thirty percent must be distributed to counties, cities, and
24 towns where licensed marijuana retailers are physically located. Each
25 jurisdiction must receive a share of the revenue distribution under
26 this subsection (2)(g)(i)(A) based on the proportional share of the
27 total revenues generated in the individual jurisdiction from the
28 taxes collected under RCW 69.50.535, from licensed marijuana
29 retailers physically located in each jurisdiction. For purposes of
30 this subsection (2)(g)(i)(A), one hundred percent of the proportional
31 amount attributed to a retailer physically located in a city or town
32 must be distributed to the city or town.

33 (B) Seventy percent must be distributed to counties, cities, and
34 towns ratably on a per capita basis. Counties must receive sixty
35 percent of the distribution, which must be disbursed based on each
36 county's total proportional population. Funds may only be distributed
37 to jurisdictions that do not prohibit the siting of any state
38 licensed marijuana producer, processor, or retailer.

1 (ii) Distribution amounts allocated to each county, city, and
2 town must be distributed in four installments by the last day of each
3 fiscal quarter.

4 (iii) By September 15th of each year, the state liquor and
5 cannabis board must provide the state treasurer the annual
6 distribution amount, if any, for each county and city as determined
7 in (g)(i) of this subsection (2).

8 (iv) The total share of marijuana excise tax revenues distributed
9 to counties and cities in (g)(i) of this subsection (2) may not
10 exceed fifteen million dollars in fiscal years 2018 and 2019 and
11 twenty million dollars per fiscal year thereafter.

12 For the purposes of this section, "marijuana products" means
13 "useable marijuana," "marijuana concentrates," and "marijuana-infused
14 products" as those terms are defined in RCW 69.50.101.

15 **NEW SECTION. Sec. 207.** A new section is added to chapter 82.08
16 RCW to read as follows:

17 (1) Beginning July 1, 2016, the tax levied by RCW 82.08.020 does
18 not apply to:

19 (a) Sales of marijuana concentrates, useable marijuana, or
20 marijuana-infused products, identified by the department of health
21 under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to be
22 beneficial for medical use, by marijuana retailers with medical
23 marijuana endorsements to qualifying patients or designated providers
24 who have been issued recognition cards;

25 (b) Sales of products containing THC with a THC concentration of
26 0.3 percent or less to qualifying patients or designated providers
27 who have been issued recognition cards by marijuana retailers with
28 medical marijuana endorsements;

29 (c) Sales of marijuana concentrates, useable marijuana, or
30 marijuana-infused products, identified by the department of health
31 under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to have a
32 low THC, high CBD ratio, and to be beneficial for medical use, by
33 marijuana retailers with medical marijuana endorsements, to any
34 person;

35 (d) Sales of topical, noningestible products containing THC with
36 a THC concentration of 0.3 percent or less by health care
37 professionals under RCW 69.51A.--- (section 35, chapter 70, Laws of
38 2015);

1 (e)(i) Marijuana, marijuana concentrates, useable marijuana,
 2 marijuana-infused products, or products containing THC with a THC
 3 concentration of 0.3 percent or less produced by a cooperative and
 4 provided to its members; and

5 (ii) Any nonmonetary resources and labor contributed by an
 6 individual member of the cooperative in which the individual is a
 7 member. However, nothing in this subsection (1)(e) may be construed
 8 to exempt the individual members of a cooperative from the tax
 9 imposed in RCW 82.08.020 on any purchase of property or services
 10 contributed to the cooperative.

11 (2) From the effective date of this section until July 1, 2016,
 12 the tax levied by RCW 82.08.020 does not apply to sales of marijuana,
 13 marijuana concentrates, useable marijuana, marijuana-infused
 14 products, or products containing THC with a THC concentration of 0.3
 15 percent or less, by collective gardens under RCW 69.51A.085 to
 16 qualifying patients or designated providers, if such sales are in
 17 compliance with chapter 69.51A RCW.

18 (3) Each seller making exempt sales under subsection (1) or (2)
 19 of this section must maintain information establishing eligibility
 20 for the exemption in the form and manner required by the department.

21 (4) The department must provide a separate tax reporting line for
 22 exemption amounts claimed under this section.

23 (5) The definitions in this subsection apply throughout this
 24 section unless the context clearly requires otherwise.

25 (a) "Cooperative" means a cooperative authorized by and operating
 26 in compliance with RCW 69.51A.--- (section 26, chapter 70, Laws of
 27 2015).

28 (b) "Marijuana retailer with a medical marijuana endorsement"
 29 means a marijuana retailer permitted under RCW 69.50.--- (section 10,
 30 chapter 70, Laws of 2015) to sell marijuana for medical use to
 31 qualifying patients and designated providers.

32 (c) "Products containing THC with a THC concentration of 0.3
 33 percent or less" means all products containing THC with a THC
 34 concentration not exceeding 0.3 percent and that, when used as
 35 intended, are inhalable, ingestible, or absorbable.

36 (d) "THC concentration," "marijuana," "marijuana concentrates,"
 37 "useable marijuana," "marijuana retailer," and "marijuana-infused
 38 products" have the same meanings as provided in RCW 69.50.101 and the
 39 terms "qualifying patients," "designated providers," and "recognition
 40 card" have the same meaning as provided in RCW 69.51A.010.

1 NEW SECTION. **Sec. 208.** A new section is added to chapter 82.12
 2 RCW to read as follows:

3 (1) From the effective date of this section until July 1, 2016,
 4 the provisions of this chapter do not apply to the use of marijuana,
 5 marijuana concentrates, useable marijuana, marijuana-infused
 6 products, or products containing THC with a THC concentration of 0.3
 7 percent or less, by a collective garden under RCW 69.51A.085, and the
 8 qualifying patients or designated providers participating in the
 9 collective garden, if such use is in compliance with chapter 69.51A
 10 RCW.

11 (2) Beginning July 1, 2016, the provisions of this chapter do not
 12 apply to:

13 (a) The use of marijuana concentrates, useable marijuana, or
 14 marijuana-infused products, identified by the department of health
 15 under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to be
 16 beneficial for medical use, by qualifying patients or designated
 17 providers who have been issued recognition cards and have obtained
 18 such products from a marijuana retailer with a medical marijuana
 19 endorsement.

20 (b) The use of products containing THC with a THC concentration
 21 of 0.3 percent or less by qualifying patients or designated providers
 22 who have been issued recognition cards and have obtained such
 23 products from a marijuana retailer with a medical marijuana
 24 endorsement.

25 (c)(i) Marijuana retailers with a medical marijuana endorsement
 26 with respect to:

27 (A) Marijuana concentrates, useable marijuana, or marijuana-
 28 infused products; or

29 (B) Products containing THC with a THC concentration of 0.3
 30 percent or less;

31 (ii) The exemption in this subsection (2)(c) applies only if such
 32 products are provided at no charge to a qualifying patient or
 33 designated provider who has been issued a recognition card. Each such
 34 retailer providing such products at no charge must maintain
 35 information establishing eligibility for this exemption in the form
 36 and manner required by the department.

37 (d) The use of marijuana concentrates, useable marijuana, or
 38 marijuana-infused products, identified by the department of health
 39 under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to have a
 40 low THC, high CBD ratio, and to be beneficial for medical use,

1 purchased from marijuana retailers with a medical marijuana
2 endorsement.

3 (e) Health care professionals with respect to the use of products
4 containing THC with a THC concentration of 0.3 percent or less
5 provided at no charge by the health care professionals under RCW
6 69.51A.--- (section 35, chapter 70, Laws of 2015). Each health care
7 professional providing such products at no charge must maintain
8 information establishing eligibility for this exemption in the form
9 and manner required by the department.

10 (f) The use of topical, noningestible products containing THC
11 with a THC concentration of 0.3 percent or less by qualifying
12 patients when purchased from or provided at no charge by a health
13 care professional under RCW 69.51A.--- (section 35, chapter 70, Laws
14 of 2015).

15 (g) The use of:

16 (i) Marijuana, marijuana concentrates, useable marijuana,
17 marijuana-infused products, or products containing THC with a THC
18 concentration of 0.3 percent or less, by a cooperative and its
19 members, when produced by the cooperative; and

20 (ii) Any nonmonetary resources and labor by a cooperative when
21 contributed by its members. However, nothing in this subsection
22 (2)(g) may be construed to exempt the individual members of a
23 cooperative from the tax imposed in RCW 82.12.020 on the use of any
24 property or services purchased by the member and contributed to the
25 cooperative.

26 (3) The definitions in section 207 of this act apply to this
27 section.

28 NEW SECTION. **Sec. 209.** The provisions of RCW 82.32.805 and
29 82.32.808(8) do not apply to the exemptions in sections 207 and 208
30 of this act.

31 NEW SECTION. **Sec. 210.** A new section is added to chapter 69.50
32 RCW to read as follows:

33 (1)(a) Except as provided in (b) of this subsection, a retail
34 sale of a bundled transaction that includes marijuana product is
35 subject to the tax imposed under RCW 69.50.535 on the entire selling
36 price of the bundled transaction.

37 (b) If the selling price is attributable to products that are
38 taxable and products that are not taxable under RCW 69.50.535, the

1 portion of the price attributable to the nontaxable products are
 2 subject to the tax imposed by RCW 69.50.535 unless the seller can
 3 identify by reasonable and verifiable standards the portion that is
 4 not subject to tax from its books and records that are kept in the
 5 regular course of business for other purposes including, but not
 6 limited to, nontax purposes.

7 (2) The definitions in this subsection apply throughout this
 8 section unless the context clearly requires otherwise.

9 (a) "Bundled transaction" means:

10 (i) The retail sale of two or more products where the products
 11 are otherwise distinct and identifiable, are sold for one nonitemized
 12 price, and at least one product is a marijuana product subject to the
 13 tax under RCW 69.50.535; and

14 (ii) A marijuana product provided free of charge with the
 15 required purchase of another product. A marijuana product is provided
 16 free of charge if the sales price of the product purchased does not
 17 vary depending on the inclusion of the marijuana product provided
 18 free of charge.

19 (b) "Distinct and identifiable products" does not include
 20 packaging such as containers, boxes, sacks, bags, and bottles, or
 21 materials such as wrapping, labels, tags, and instruction guides,
 22 that accompany the retail sale of the products and are incidental or
 23 immaterial to the retail sale thereof. Examples of packaging that are
 24 incidental or immaterial include grocery sacks, shoeboxes, and dry
 25 cleaning garment bags.

26 (c) "Marijuana product" means "useable marijuana," "marijuana
 27 concentrates," and "marijuana-infused products" as defined in RCW
 28 69.50.101.

29 (d) "Selling price" has the same meaning as in RCW 82.08.010,
 30 except that when product is sold under circumstances where the total
 31 amount of consideration paid for the product is not indicative of its
 32 true value, "selling price" means the true value of the product sold.

33 (e) "True value" means market value based on sales at comparable
 34 locations in this state of the same or similar product of like
 35 quality and character sold under comparable conditions of sale to
 36 comparable purchasers. However, in the absence of such sales of the
 37 same or similar product, "true value" means the value of the product
 38 sold as determined by all of the seller's direct and indirect costs
 39 attributable to the product.

1 NEW SECTION. **Sec. 211.** A new section is added to chapter 69.50
2 RCW to read as follows:

(1) Marijuana producers, processors, and retailers are prohibited from making sales of any marijuana or marijuana product, if the sale of the marijuana or marijuana product is conditioned upon the buyer's purchase of any service or nonmarijuana product. This subsection applies whether the buyer purchases such service or nonmarijuana product at the time of sale of the marijuana or marijuana product, or in a separate transaction.

10 (2) The definitions in this subsection apply throughout this
11 section unless the context clearly requires otherwise.

12 (a) "Marijuana product" means "useable marijuana," "marijuana
13 concentrates," and "marijuana-infused products," as those terms are
14 defined in RCW 69.50.101.

15 (b) "Nonmarijuana product" includes paraphernalia, promotional
16 items, lighters, bags, boxes, containers, and such other items as may
17 be identified by the state liquor and cannabis board.

18 (c) "Selling price" has the same meaning as in RCW 69.50.535.

19 (d) "Service" includes memberships and any other services
20 identified by the state liquor and cannabis board.

21

PART III

22 Marijuana Business: Buffers and Licensee Residency

23 **Sec. 301.** RCW 69.50.331 and 2015 c 70 s 6 are each amended to
24 read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under section 502 of this act, or sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under section 502 of this act, or sell marijuana, the state liquor and cannabis board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

36 (a) The state liquor and cannabis board must develop a
37 competitive, merit-based application process that includes, at a
38 minimum, the opportunity for an applicant to demonstrate experience

1 and qualifications in the marijuana industry. The state liquor and
 2 cannabis board (~~shall~~) must give preference between competing
 3 applications in the licensing process to applicants that have the
 4 following experience and qualifications, in the following order of
 5 priority:

6 (i) First priority is given to applicants who:

7 (A) Applied to the state liquor and cannabis board for a
 8 marijuana retailer license prior to July 1, 2014;

9 (B) Operated or were employed by a collective garden before
 10 January 1, 2013;

11 (C) Have maintained a state business license and a municipal
 12 business license, as applicable in the relevant jurisdiction; and

13 (D) Have had a history of paying all applicable state taxes and
 14 fees;

15 (ii) Second priority (~~shall~~) must be given to applicants who:

16 (A) Operated or were employed by a collective garden before
 17 January 1, 2013;

18 (B) Have maintained a state business license and a municipal
 19 business license, as applicable in the relevant jurisdiction; and

20 (C) Have had a history of paying all applicable state taxes and
 21 fees; and

22 (iii) Third priority (~~shall~~) must be given to all other
 23 applicants who do not have the experience and qualifications
 24 identified in (a)(i) and (ii) of this subsection.

25 (b) The state liquor and cannabis board may cause an inspection
 26 of the premises to be made, and may inquire into all matters in
 27 connection with the construction and operation of the premises. For
 28 the purpose of reviewing any application for a license and for
 29 considering the denial, suspension, revocation, or renewal or denial
 30 thereof, of any license, the state liquor and cannabis board may
 31 consider any prior criminal conduct of the applicant including an
 32 administrative violation history record with the state liquor and
 33 cannabis board and a criminal history record information check. The
 34 state liquor and cannabis board may submit the criminal history
 35 record information check to the Washington state patrol and to the
 36 identification division of the federal bureau of investigation in
 37 order that these agencies may search their records for prior arrests
 38 and convictions of the individual or individuals who filled out the
 39 forms. The state liquor and cannabis board (~~shall~~) must require
 40 fingerprinting of any applicant whose criminal history record

1 information check is submitted to the federal bureau of
 2 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
 3 RCW (~~(shall)~~) do not apply to these cases. Subject to the provisions
 4 of this section, the state liquor and cannabis board may, in its
 5 discretion, grant or deny the renewal or license applied for. Denial
 6 may be based on, without limitation, the existence of chronic illegal
 7 activity documented in objections submitted pursuant to subsections
 8 (7)(c) and (~~((9))~~) (10) of this section. Authority to approve an
 9 uncontested or unopposed license may be granted by the state liquor
 10 and cannabis board to any staff member the board designates in
 11 writing. Conditions for granting this authority (~~(shall)~~) must be
 12 adopted by rule.

13 (c) No license of any kind may be issued to:

14 (i) A person under the age of twenty-one years;

15 (ii) A person doing business as a sole proprietor who has not
 16 lawfully resided in the state for at least (~~(three))~~ six months prior
 17 to applying to receive a license;

18 (iii) A partnership, employee cooperative, association, nonprofit
 19 corporation, or corporation unless formed under the laws of this
 20 state, and unless all of the members thereof are qualified to obtain
 21 a license as provided in this section; or

22 (iv) A person whose place of business is conducted by a manager
 23 or agent, unless the manager or agent possesses the same
 24 qualifications required of the licensee.

25 (2)(a) The state liquor and cannabis board may, in its
 26 discretion, subject to the provisions of RCW 69.50.334, suspend or
 27 cancel any license; and all protections of the licensee from criminal
 28 or civil sanctions under state law for producing, processing,
 29 researching, or selling marijuana, marijuana concentrates, useable
 30 marijuana, or marijuana-infused products thereunder (~~(shall)~~) must be
 31 suspended or terminated, as the case may be.

32 (b) The state liquor and cannabis board (~~(shall)~~) must
 33 immediately suspend the license of a person who has been certified
 34 pursuant to RCW 74.20A.320 by the department of social and health
 35 services as a person who is not in compliance with a support order.
 36 If the person has continued to meet all other requirements for
 37 reinstatement during the suspension, reissuance of the license
 38 (~~(shall-be)~~) is automatic upon the state liquor and cannabis board's
 39 receipt of a release issued by the department of social and health
 40 services stating that the licensee is in compliance with the order.

1 (c) The state liquor and cannabis board may request the
 2 appointment of administrative law judges under chapter 34.12 RCW who
 3 shall have power to administer oaths, issue subpoenas for the
 4 attendance of witnesses and the production of papers, books,
 5 accounts, documents, and testimony, examine witnesses, and to receive
 6 testimony in any inquiry, investigation, hearing, or proceeding in
 7 any part of the state, under rules and regulations the state liquor
 8 and cannabis board may adopt.

9 (d) Witnesses (~~((shall))~~) must be allowed fees and mileage each way
 10 to and from any inquiry, investigation, hearing, or proceeding at the
 11 rate authorized by RCW 34.05.446. Fees need not be paid in advance of
 12 appearance of witnesses to testify or to produce books, records, or
 13 other legal evidence.

14 (e) In case of disobedience of any person to comply with the
 15 order of the state liquor and cannabis board or a subpoena issued by
 16 the state liquor and cannabis board, or any of its members, or
 17 administrative law judges, or on the refusal of a witness to testify
 18 to any matter regarding which he or she may be lawfully interrogated,
 19 the judge of the superior court of the county in which the person
 20 resides, on application of any member of the board or administrative
 21 law judge, (~~((shall))~~) compels obedience by contempt proceedings, as in
 22 the case of disobedience of the requirements of a subpoena issued
 23 from said court or a refusal to testify therein.

24 (3) Upon receipt of notice of the suspension or cancellation of a
 25 license, the licensee (~~((shall))~~) must forthwith deliver up the license
 26 to the state liquor and cannabis board. Where the license has been
 27 suspended only, the state liquor and cannabis board (~~((shall))~~) must
 28 return the license to the licensee at the expiration or termination
 29 of the period of suspension. The state liquor and cannabis board
 30 (~~((shall))~~) must notify all other licensees in the county where the
 31 subject licensee has its premises of the suspension or cancellation
 32 of the license; and no other licensee or employee of another licensee
 33 may allow or cause any marijuana, marijuana concentrates, useable
 34 marijuana, or marijuana-infused products to be delivered to or for
 35 any person at the premises of the subject licensee.

36 (4) Every license issued under this chapter (~~((3, Laws of 2013~~
 37 ~~shall be))~~) is subject to all conditions and restrictions imposed by
 38 this chapter (~~((3, Laws of 2013))~~) or by rules adopted by the state
 39 liquor and cannabis board to implement and enforce this chapter (~~((3,~~
 40 ~~Laws of 2013))~~). All conditions and restrictions imposed by the state

1 liquor and cannabis board in the issuance of an individual license
 2 (~~shall~~) must be listed on the face of the individual license along
 3 with the trade name, address, and expiration date.

4 (5) Every licensee (~~shall~~) must post and keep posted its
 5 license, or licenses, in a conspicuous place on the premises.

6 (6) No licensee (~~shall~~) may employ any person under the age of
 7 twenty-one years.

8 (7)(a) Before the state liquor and cannabis board issues a new or
 9 renewed license to an applicant it (~~shall~~) must give notice of the
 10 application to the chief executive officer of the incorporated city
 11 or town, if the application is for a license within an incorporated
 12 city or town, or to the county legislative authority, if the
 13 application is for a license outside the boundaries of incorporated
 14 cities or towns.

15 (b) The incorporated city or town through the official or
 16 employee selected by it, or the county legislative authority or the
 17 official or employee selected by it, (~~shall have~~) has the right to
 18 file with the state liquor and cannabis board within twenty days
 19 after the date of transmittal of the notice for applications, or at
 20 least thirty days prior to the expiration date for renewals, written
 21 objections against the applicant or against the premises for which
 22 the new or renewed license is asked. The state liquor and cannabis
 23 board may extend the time period for submitting written objections.

24 (c) The written objections (~~shall~~) must include a statement of
 25 all facts upon which the objections are based, and in case written
 26 objections are filed, the city or town or county legislative
 27 authority may request, and the state liquor and cannabis board may in
 28 its discretion hold, a hearing subject to the applicable provisions
 29 of Title 34 RCW. If the state liquor and cannabis board makes an
 30 initial decision to deny a license or renewal based on the written
 31 objections of an incorporated city or town or county legislative
 32 authority, the applicant may request a hearing subject to the
 33 applicable provisions of Title 34 RCW. If a hearing is held at the
 34 request of the applicant, state liquor and cannabis board
 35 representatives (~~shall~~) must present and defend the state liquor
 36 and cannabis board's initial decision to deny a license or renewal.

37 (d) Upon the granting of a license under this title the state
 38 liquor and cannabis board (~~shall~~) must send written notification to
 39 the chief executive officer of the incorporated city or town in which
 40 the license is granted, or to the county legislative authority if the

1 license is granted outside the boundaries of incorporated cities or
2 towns.

3 (8)(a) Except as provided in (b) through (d) of this subsection,
4 the state liquor and cannabis board (~~(shall)~~) may not issue a license
5 for any premises within one thousand feet of the perimeter of the
6 grounds of any elementary or secondary school, playground, recreation
7 center or facility, child care center, public park, public transit
8 center, or library, or any game arcade admission to which is not
9 restricted to persons aged twenty-one years or older.

10 (b) A city, county, or town may permit the licensing of premises
11 within one thousand feet but not less than one hundred feet of the
12 facilities described in (a) of this subsection, except elementary
13 schools, secondary schools, and playgrounds, by enacting an ordinance
14 authorizing such distance reduction, provided that such distance
15 reduction will not negatively impact the jurisdiction's civil
16 regulatory enforcement, criminal law enforcement interests, public
17 safety, or public health.

18 (c) A city, county, or town may permit the licensing of research
19 premises allowed under RCW 69.50.--- (section 1, chapter 71, Laws of
20 2015) within one thousand feet but not less than one hundred feet of
21 the facilities described in (a) of this subsection by enacting an
22 ordinance authorizing such distance reduction, provided that the
23 ordinance will not negatively impact the jurisdiction's civil
24 regulatory enforcement, criminal law enforcement, public safety, or
25 public health.

26 (d) The state liquor and cannabis board may license premises
27 located in compliance with the distance requirements set in an
28 ordinance adopted under (b) or (c) of this subsection. Before issuing
29 or renewing a research license for premises within one thousand feet
30 but not less than one hundred feet of an elementary school, secondary
31 school, or playground in compliance with an ordinance passed pursuant
32 to (c) of this subsection, the board must ensure that the facility:

33 (i) Meets a security standard exceeding that which applies to
34 marijuana producer, processor, or retailer licensees;

35 (ii) Is inaccessible to the public and no part of the operation
36 of the facility is in view of the general public; and

37 (iii) Bears no advertising or signage indicating that it is a
38 marijuana research facility.

39 (9) Subject to section 1601 of this act, a city, town, or county
40 may adopt an ordinance prohibiting a marijuana producer or marijuana

1 processor from operating or locating a business within areas zoned
 2 primarily for residential use or rural use with a minimum lot size of
 3 five acres or smaller.

4 (10) In determining whether to grant or deny a license or renewal
 5 of any license, the state liquor and cannabis board (~~((shall))~~) must
 6 give substantial weight to objections from an incorporated city or
 7 town or county legislative authority based upon chronic illegal
 8 activity associated with the applicant's operations of the premises
 9 proposed to be licensed or the applicant's operation of any other
 10 licensed premises, or the conduct of the applicant's patrons inside
 11 or outside the licensed premises. "Chronic illegal activity" means
 12 (a) a pervasive pattern of activity that threatens the public health,
 13 safety, and welfare of the city, town, or county including, but not
 14 limited to, open container violations, assaults, disturbances,
 15 disorderly conduct, or other criminal law violations, or as
 16 documented in crime statistics, police reports, emergency medical
 17 response data, calls for service, field data, or similar records of a
 18 law enforcement agency for the city, town, county, or any other
 19 municipal corporation or any state agency; or (b) an unreasonably
 20 high number of citations for violations of RCW 46.61.502 associated
 21 with the applicant's or licensee's operation of any licensed premises
 22 as indicated by the reported statements given to law enforcement upon
 23 arrest.

24 **PART IV**

25 **Consumption of Marijuana in a Public Place**

26 **Sec. 401.** RCW 69.50.445 and 2013 c 3 s 21 are each amended to
 27 read as follows:

28 (1) It is unlawful to open a package containing marijuana,
 29 useable marijuana, (~~((or a))~~) marijuana-infused products, or marijuana
 30 concentrates, or consume marijuana, useable marijuana, (~~((or a))~~)
 31 marijuana-infused products, or marijuana concentrates, in view of the
 32 general public or in a public place.

33 (2) For the purposes of this section, "public place" has the same
 34 meaning as defined in RCW 66.04.010, but the exclusions in RCW
 35 66.04.011 do not apply.

36 (3) A person who violates this section is guilty of a class 3
 37 civil infraction under chapter 7.80 RCW.

PART V

Transportation of Marijuana Products

NEW SECTION. **Sec. 501.** A new section is added to chapter 69.50 RCW to read as follows:

(1) A licensed marijuana producer, marijuana processor, marijuana researcher, or marijuana retailer, or their employees, in accordance with the requirements of this chapter and the administrative rules adopted thereunder, may use the services of a common carrier subject to regulation under chapters 81.28 and 81.29 RCW and licensed in compliance with the regulations established under section 502 of this act, to physically transport or deliver marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products between licensed marijuana businesses located within the state.

(2) An employee of a common carrier engaged in marijuana-related transportation or delivery services authorized under subsection (1) of this section is prohibited from carrying or using a firearm during the course of providing such services, unless:

(a) Pursuant to section 502 of this act, the state liquor and cannabis board explicitly authorizes the carrying or use of firearms by such employee while engaged in the transportation or delivery services;

(b) The employee has an armed private security guard license issued pursuant to RCW 18.170.040; and

(c) The employee is in full compliance with the regulations established by the state liquor and cannabis board under section 502 of this act.

(3) A common carrier licensed under section 502 of this act may, for the purpose of transporting and delivering marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products, utilize Washington state ferry routes for such transportation and delivery.

(4) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under section 502(3) of this act, by a licensed employee of a common carrier when performing the duties authorized under, and in accordance with, this section and section 502 of this act, is not a violation of this section, this chapter, or any other provision of Washington state law.

1 NEW SECTION. **Sec. 502.** A new section is added to chapter 69.50
2 RCW to read as follows:

3 (1) The state liquor and cannabis board must adopt rules
4 providing for an annual licensing procedure of a common carrier who
5 seeks to transport or deliver marijuana, useable marijuana, marijuana
6 concentrates, and marijuana-infused products within the state.

7 (2) The rules for licensing must:

8 (a) Establish criteria for considering the approval or denial of
9 a common carrier's original application or renewal application;

10 (b) Provide minimum qualifications for any employee authorized to
11 drive or operate the transportation or delivery vehicle, including a
12 minimum age of at least twenty-one years;

13 (c) Address the safety of the employees transporting or
14 delivering the products, including issues relating to the carrying of
15 firearms by such employees;

16 (d) Address the security of the products being transported,
17 including a system of electronically tracking all products at both
18 the point of pickup and the point of delivery; and

19 (e) Set reasonable fees for the application and licensing
20 process.

21 (3) The state liquor and cannabis board may adopt rules
22 establishing the maximum amounts of marijuana, useable marijuana,
23 marijuana concentrates, and marijuana-infused products that may be
24 physically transported or delivered at one time by a common carrier
25 as provided under section 501 of this act.

26 **Sec. 503.** RCW 69.50.4013 and 2015 c 70 s 14 are each amended to
27 read as follows:

28 (1) It is unlawful for any person to possess a controlled
29 substance unless the substance was obtained directly from, or
30 pursuant to, a valid prescription or order of a practitioner while
31 acting in the course of his or her professional practice, or except
32 as otherwise authorized by this chapter.

33 (2) Except as provided in RCW 69.50.4014, any person who violates
34 this section is guilty of a class C felony punishable under chapter
35 9A.20 RCW.

36 (3) (a) The possession, by a person twenty-one years of age or
37 older, of useable marijuana, marijuana concentrates, or marijuana-
38 infused products in amounts that do not exceed those set forth in RCW

1 69.50.360(3) is not a violation of this section, this chapter, or any
2 other provision of Washington state law.

3 (b) The possession of marijuana, useable marijuana, marijuana
4 concentrates, and marijuana-infused products being physically
5 transported or delivered within the state, in amounts not exceeding
6 those that may be established under section 502(3) of this act, by a
7 licensed employee of a common carrier when performing the duties
8 authorized in accordance with sections 501 and 502 of this act, is
9 not a violation of this section, this chapter, or any other provision
10 of Washington state law.

11 (4) No person under twenty-one years of age may possess,
12 manufacture, sell, or distribute marijuana, marijuana-infused
13 products, or marijuana concentrates, regardless of THC concentration.
14 This does not include qualifying patients with a valid authorization.

15 (5) The possession by a qualifying patient or designated provider
16 of marijuana concentrates, useable marijuana, marijuana-infused
17 products, or plants in accordance with chapter 69.51A RCW is not a
18 violation of this section, this chapter, or any other provision of
19 Washington state law.

20 **Sec. 504.** RCW 18.170.020 and 2007 c 154 s 2 are each amended to
21 read as follows:

22 The requirements of this chapter do not apply to:

23 (1) A person who is employed exclusively or regularly by one
24 employer and performs the functions of a private security guard
25 solely in connection with the affairs of that employer, if the
26 employer is not a private security company. However, in accordance
27 with section 501 of this act, an employee engaged in marijuana-
28 related transportation or delivery services on behalf of a common
29 carrier must be licensed as an armed private security guard under
30 this chapter in order to be authorized to carry or use a firearm
31 while providing such services;

32 (2) A sworn peace officer while engaged in the performance of the
33 officer's official duties;

34 (3) A sworn peace officer while employed by any person to engage
35 in off-duty employment as a private security guard, but only if the
36 employment is approved by the chief law enforcement officer of the
37 jurisdiction where the employment takes place and the sworn peace
38 officer does not employ, contract with, or broker for profit other

1 persons to assist him or her in performing the duties related to his
2 or her private employer; or

3 (4)(a) A person performing crowd management or guest services
4 including, but not limited to, a person described as a ticket taker,
5 usher, door attendant, parking attendant, crowd monitor, or event
6 staff who:

7 ((-a-)) (i) Does not carry a firearm or other dangerous weapon
8 including, but not limited to, a stun gun, taser, pepper mace, or
9 nightstick;

10 ((-b-)) (ii) Does not wear a uniform or clothing readily
11 identifiable by a member of the public as that worn by a private
12 security officer or law enforcement officer; and

13 ((-c-)) (iii) Does not have as his or her primary responsibility
14 the detainment of persons or placement of persons under arrest.

15 (b) The exemption provided in this subsection applies only when a
16 crowd has assembled for the purpose of attending or taking part in an
17 organized event, including preevent assembly, event operation hours,
18 and postevent departure activities.

19 **Sec. 505.** RCW 69.50.4014 and 2003 c 53 s 335 are each amended to
20 read as follows:

21 Except as provided in RCW 69.50.401(2)(c) or as otherwise
22 authorized by this chapter, any person found guilty of possession of
23 forty grams or less of ((marihuana)) marijuana is guilty of a
24 misdemeanor.

25 **PART VI**

26 **Funding for Marijuana Health Awareness Program**

27 **Sec. 601.** RCW 66.08.050 and 2014 c 63 s 3 are each amended to
28 read as follows:

29 The board, subject to the provisions of this title and the rules,
30 must:

31 (1) Determine the nature, form and capacity of all packages to be
32 used for containing liquor kept for sale under this title;

33 (2) Execute or cause to be executed, all contracts, papers, and
34 documents in the name of the board, under such regulations as the
35 board may fix;

36 (3) Pay all customs, duties, excises, charges and obligations
37 whatsoever relating to the business of the board;

1 (4) Require bonds from all employees in the discretion of the
2 board, and to determine the amount of fidelity bond of each such
3 employee;

4 (5) Perform services for the state lottery commission to such
5 extent, and for such compensation, as may be mutually agreed upon
6 between the board and the commission;

7 (6) Accept and deposit into the general fund-local account and
8 disburse, subject to appropriation, federal grants or other funds or
9 donations from any source for the purpose of improving public
10 awareness of the health risks associated with alcohol and marijuana
11 consumption by youth and the abuse of alcohol and marijuana by adults
12 in Washington state. The board's alcohol awareness program must
13 cooperate with federal and state agencies, interested organizations,
14 and individuals to effect an active public beverage alcohol awareness
15 program;

16 (7) Monitor and regulate the practices of licensees as necessary
17 in order to prevent the theft and illegal trafficking of liquor
18 pursuant to RCW 66.28.350;

19 (8) Perform all other matters and things, whether similar to the
20 foregoing or not, to carry out the provisions of this title, and has
21 full power to do each and every act necessary to the conduct of its
22 regulatory functions, including all supplies procurement, preparation
23 and approval of forms, and every other undertaking necessary to
24 perform its regulatory functions whatsoever, subject only to audit by
25 the state auditor. However, the board has no authority to regulate
26 the content of spoken language on licensed premises where wine and
27 other liquors are served and where there is not a clear and present
28 danger of disorderly conduct being provoked by such language or to
29 restrict advertising of lawful prices.

30 **PART VII**

31 **Cannabis Health and Beauty Aid Exemption**

32 NEW SECTION. **Sec. 701.** A new section is added to chapter 69.50
33 RCW to read as follows:

34 (1) Cannabis health and beauty aids are not subject to the
35 regulations and penalties of this chapter that apply to marijuana,
36 marijuana concentrates, or marijuana-infused products.

1 (2) For purposes of this section, "cannabis health and beauty
2 aid" means a product containing parts of the cannabis plant and
3 which:

4 (a) Is intended for use only as a topical application to provide
5 therapeutic benefit or to enhance appearance;

6 (b) Contains a THC concentration of not more than 0.3 percent;

7 (c) Does not cross the blood-brain barrier; and

8 (d) Is not intended for ingestion by humans or animals.

9

PART VIII

10

Signage and Public Notice Requirements

11 NEW SECTION. **Sec. 801.** A new section is added to chapter 69.50
12 RCW to read as follows:

13 (1) Applicants for a marijuana producer's, marijuana processor's,
14 marijuana researcher's or marijuana retailer's license under this
15 chapter must display a sign provided by the state liquor and cannabis
16 board on the outside of the premises to be licensed notifying the
17 public that the premises are subject to an application for such
18 license. The sign must:

19 (a) Contain text with content sufficient to notify the public of
20 the nature of the pending license application, the date of the
21 application, the name of the applicant, and contact information for
22 the state liquor and cannabis board;

23 (b) Be conspicuously displayed on, or immediately adjacent to,
24 the premises subject to the application and in the location that is
25 most likely to be seen by the public;

26 (c) Be of a size sufficient to ensure that it will be readily
27 seen by the public; and

28 (d) Be posted within seven business days of the submission of the
29 application to the state liquor and cannabis board.

30 (2) The state liquor and cannabis board must adopt such rules as
31 are necessary for the implementation of this section, including rules
32 pertaining to the size of the sign and the text thereon, the textual
33 content of the sign, the fee for providing the sign, and any other
34 requirements necessary to ensure that the sign provides adequate
35 notice to the public.

36 (3)(a) A city, town, or county may adopt an ordinance requiring
37 individual notice by an applicant for a marijuana producer's,
38 marijuana processor's, marijuana researcher's, or marijuana

1 retailer's license under this chapter, sixty days prior to issuance
 2 of the license, to any elementary or secondary school, playground,
 3 recreation center or facility, child care center, church, public
 4 park, public transit center, library, or any game arcade admission to
 5 which is not restricted to persons aged twenty-one years or older,
 6 that is within one thousand feet of the perimeter of the grounds of
 7 the establishment seeking licensure. The notice must provide the
 8 contact information for the liquor and cannabis board where any of
 9 the owners or operators of these entities may submit comments or
 10 concerns about the proposed business location.

11 (b) For the purposes of this subsection, "church" means a
 12 building erected for and used exclusively for religious worship and
 13 schooling or other activity in connection therewith.

14 **PART IX**

15 **Marijuana-Infused Products and Concentrates**

16 **Sec. 901.** RCW 69.50.101 and 2015 c 70 s 4 are each amended to
 17 read as follows:

18 ~~((Unless the context clearly requires otherwise, definitions of~~
 19 ~~terms shall be as indicated where used in this chapter:))~~ The
 20 definitions in this section apply throughout this chapter unless the
 21 context clearly requires otherwise.

22 (a) "Administer" means to apply a controlled substance, whether
 23 by injection, inhalation, ingestion, or any other means, directly to
 24 the body of a patient or research subject by:

25 (1) a practitioner authorized to prescribe (or, by the
 26 practitioner's authorized agent); or

27 (2) the patient or research subject at the direction and in the
 28 presence of the practitioner.

29 (b) "Agent" means an authorized person who acts on behalf of or
 30 at the direction of a manufacturer, distributor, or dispenser. It
 31 does not include a common or contract carrier, public
 32 warehouseperson, or employee of the carrier or warehouseperson.

33 (c) "Commission" means the pharmacy quality assurance commission.

34 (d) "Controlled substance" means a drug, substance, or immediate
 35 precursor included in Schedules I through V as set forth in federal
 36 or state laws, or federal or commission rules.

1 (e)(1) "Controlled substance analog" means a substance the
2 chemical structure of which is substantially similar to the chemical
3 structure of a controlled substance in Schedule I or II and:

4 (i) that has a stimulant, depressant, or hallucinogenic effect on
5 the central nervous system substantially similar to the stimulant,
6 depressant, or hallucinogenic effect on the central nervous system of
7 a controlled substance included in Schedule I or II; or

8 (ii) with respect to a particular individual, that the individual
9 represents or intends to have a stimulant, depressant, or
10 hallucinogenic effect on the central nervous system substantially
11 similar to the stimulant, depressant, or hallucinogenic effect on the
12 central nervous system of a controlled substance included in Schedule
13 I or II.

14 (2) The term does not include:

15 (i) a controlled substance;

16 (ii) a substance for which there is an approved new drug
17 application;

18 (iii) a substance with respect to which an exemption is in effect
19 for investigational use by a particular person under Section 505 of
20 the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the
21 extent conduct with respect to the substance is pursuant to the
22 exemption; or

23 (iv) any substance to the extent not intended for human
24 consumption before an exemption takes effect with respect to the
25 substance.

26 (f) "Deliver" or "delivery," means the actual or constructive
27 transfer from one person to another of a substance, whether or not
28 there is an agency relationship.

29 (g) "Department" means the department of health.

30 (h) "Dispense" means the interpretation of a prescription or
31 order for a controlled substance and, pursuant to that prescription
32 or order, the proper selection, measuring, compounding, labeling, or
33 packaging necessary to prepare that prescription or order for
34 delivery.

35 (i) "Dispenser" means a practitioner who dispenses.

36 (j) "Distribute" means to deliver other than by administering or
37 dispensing a controlled substance.

38 (k) "Distributor" means a person who distributes.

39 (l) "Drug" means (1) a controlled substance recognized as a drug
40 in the official United States pharmacopoeia/national formulary or the

1 official homeopathic pharmacopoeia of the United States, or any
 2 supplement to them; (2) controlled substances intended for use in the
 3 diagnosis, cure, mitigation, treatment, or prevention of disease in
 4 individuals or animals; (3) controlled substances (other than food)
 5 intended to affect the structure or any function of the body of
 6 individuals or animals; and (4) controlled substances intended for
 7 use as a component of any article specified in (1), (2), or (3) of
 8 this subsection. The term does not include devices or their
 9 components, parts, or accessories.

10 (m) "Drug enforcement administration" means the drug enforcement
 11 administration in the United States Department of Justice, or its
 12 successor agency.

13 (n) "Electronic communication of prescription information" means
 14 the transmission of a prescription or refill authorization for a drug
 15 of a practitioner using computer systems. The term does not include a
 16 prescription or refill authorization verbally transmitted by
 17 telephone nor a facsimile manually signed by the practitioner.

18 (o) "Immediate precursor" means a substance:

19 (1) that the commission has found to be and by rule designates as
 20 being the principal compound commonly used, or produced primarily for
 21 use, in the manufacture of a controlled substance;

22 (2) that is an immediate chemical intermediary used or likely to
 23 be used in the manufacture of a controlled substance; and

24 (3) the control of which is necessary to prevent, curtail, or
 25 limit the manufacture of the controlled substance.

26 (p) "Isomer" means an optical isomer, but in subsection ((+z+))
 27 (bb)(5) of this section, RCW 69.50.204(a) (12) and (34), and
 28 69.50.206(b)(4), the term includes any geometrical isomer; in RCW
 29 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any
 30 positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and
 31 69.50.208(a) the term includes any positional or geometric isomer.

32 (q) "Lot" means a definite quantity of marijuana, marijuana
 33 concentrates, useable marijuana, or marijuana-infused product
 34 identified by a lot number, every portion or package of which is
 35 uniform within recognized tolerances for the factors that appear in
 36 the labeling.

37 (r) "Lot number" (~~((shall))~~) must identify the licensee by business
 38 or trade name and Washington state unified business identifier
 39 number, and the date of harvest or processing for each lot of

1 marijuana, marijuana concentrates, useable marijuana, or marijuana-
2 infused product.

3 (s) "Manufacture" means the production, preparation, propagation,
4 compounding, conversion, or processing of a controlled substance,
5 either directly or indirectly or by extraction from substances of
6 natural origin, or independently by means of chemical synthesis, or
7 by a combination of extraction and chemical synthesis, and includes
8 any packaging or repackaging of the substance or labeling or
9 relabeling of its container. The term does not include the
10 preparation, compounding, packaging, repackaging, labeling, or
11 relabeling of a controlled substance:

12 (1) by a practitioner as an incident to the practitioner's
13 administering or dispensing of a controlled substance in the course
14 of the practitioner's professional practice; or

15 (2) by a practitioner, or by the practitioner's authorized agent
16 under the practitioner's supervision, for the purpose of, or as an
17 incident to, research, teaching, or chemical analysis and not for
18 sale.

19 (t) "Marijuana" or "marihuana" means all parts of the plant
20 *Cannabis*, whether growing or not, with a THC concentration greater
21 than 0.3 percent on a dry weight basis; the seeds thereof; the resin
22 extracted from any part of the plant; and every compound,
23 manufacture, salt, derivative, mixture, or preparation of the plant,
24 its seeds or resin. The term does not include the mature stalks of
25 the plant, fiber produced from the stalks, oil or cake made from the
26 seeds of the plant, any other compound, manufacture, salt,
27 derivative, mixture, or preparation of the mature stalks (except the
28 resin extracted therefrom), fiber, oil, or cake, or the sterilized
29 seed of the plant which is incapable of germination.

30 (u) "Marijuana concentrates" means products consisting wholly or
31 in part of the resin extracted from any part of the plant *Cannabis*
32 and having a THC concentration greater than (~~sixty~~) ten percent.

33 (v) "Marijuana processor" means a person licensed by the state
34 liquor and cannabis board to process marijuana into marijuana
35 concentrates, useable marijuana, and marijuana-infused products,
36 package and label marijuana concentrates, useable marijuana, and
37 marijuana-infused products for sale in retail outlets, and sell
38 marijuana concentrates, useable marijuana, and marijuana-infused
39 products at wholesale to marijuana retailers.

(w) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(x) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(y) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (t) of this section, and have a THC concentration no greater than ~~((0.3))~~ ten percent ~~((and no greater than sixty percent))~~. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

~~((+y))~~ (z) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(aa) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

~~((+z))~~ (bb) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

1 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
2 thereof.

3 (8) Any compound, mixture, or preparation containing any quantity
4 of any substance referred to in subparagraphs (1) through (7).

5 (~~((aa))~~) (cc) "Opiate" means any substance having an addiction-
6 forming or addiction-sustaining liability similar to morphine or
7 being capable of conversion into a drug having addiction-forming or
8 addiction-sustaining liability. The term includes opium, substances
9 derived from opium (opium derivatives), and synthetic opiates. The
10 term does not include, unless specifically designated as controlled
11 under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-
12 methylmorphinan and its salts (dextromethorphan). The term includes
13 the racemic and levorotatory forms of dextromethorphan.

14 (~~((bb))~~) (dd) "Opium poppy" means the plant of the species
15 Papaver somniferum L., except its seeds.

16 (~~((cc))~~) (ee) "Person" means individual, corporation, business
17 trust, estate, trust, partnership, association, joint venture,
18 government, governmental subdivision or agency, or any other legal or
19 commercial entity.

20 (~~((dd))~~) (ff) "Poppy straw" means all parts, except the seeds, of
21 the opium poppy, after mowing.

22 (~~((ee))~~) (gg) "Practitioner" means:

23 (1) A physician under chapter 18.71 RCW; a physician assistant
24 under chapter 18.71A RCW; an osteopathic physician and surgeon under
25 chapter 18.57 RCW; an osteopathic physician assistant under chapter
26 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
27 limitations in RCW 18.57A.040; an optometrist licensed under chapter
28 18.53 RCW who is certified by the optometry board under RCW 18.53.010
29 subject to any limitations in RCW 18.53.010; a dentist under chapter
30 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
31 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
32 registered nurse practitioner, or licensed practical nurse under
33 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
34 who is licensed under RCW 18.36A.030 subject to any limitations in
35 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
36 investigator under this chapter, licensed, registered or otherwise
37 permitted insofar as is consistent with those licensing laws to
38 distribute, dispense, conduct research with respect to or administer
39 a controlled substance in the course of their professional practice
40 or research in this state.

1 (2) A pharmacy, hospital or other institution licensed,
2 registered, or otherwise permitted to distribute, dispense, conduct
3 research with respect to or to administer a controlled substance in
4 the course of professional practice or research in this state.

5 (3) A physician licensed to practice medicine and surgery, a
6 physician licensed to practice osteopathic medicine and surgery, a
7 dentist licensed to practice dentistry, a podiatric physician and
8 surgeon licensed to practice podiatric medicine and surgery, a
9 licensed physician assistant or a licensed osteopathic physician
10 assistant specifically approved to prescribe controlled substances by
11 his or her state's medical quality assurance commission or equivalent
12 and his or her supervising physician, an advanced registered nurse
13 practitioner licensed to prescribe controlled substances, or a
14 veterinarian licensed to practice veterinary medicine in any state of
15 the United States.

16 (~~((ff))~~) (hh) "Prescription" means an order for controlled
17 substances issued by a practitioner duly authorized by law or rule in
18 the state of Washington to prescribe controlled substances within the
19 scope of his or her professional practice for a legitimate medical
20 purpose.

21 (~~((gg))~~) (ii) "Production" includes the manufacturing, planting,
22 cultivating, growing, or harvesting of a controlled substance.

23 (~~((hh))~~) (jj) "Retail outlet" means a location licensed by the
24 state liquor and cannabis board for the retail sale of marijuana
25 concentrates, useable marijuana, and marijuana-infused products.

26 (~~((ii))~~) (kk) "Secretary" means the secretary of health or the
27 secretary's designee.

28 (~~((jj))~~) (ll) "State," unless the context otherwise requires,
29 means a state of the United States, the District of Columbia, the
30 Commonwealth of Puerto Rico, or a territory or insular possession
31 subject to the jurisdiction of the United States.

32 (~~((kk))~~) (mm) "THC concentration" means percent of delta-9
33 tetrahydrocannabinol content per dry weight of any part of the plant
34 *Cannabis*, or per volume or weight of marijuana product, or the
35 combined percent of delta-9 tetrahydrocannabinol and
36 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
37 regardless of moisture content.

38 (~~((ll))~~) (nn) "Ultimate user" means an individual who lawfully
39 possesses a controlled substance for the individual's own use or for
40 the use of a member of the individual's household or for

1 administering to an animal owned by the individual or by a member of
2 the individual's household.

3 ~~((mm))~~ (oo) "Useable marijuana" means dried marijuana flowers.
4 The term "useable marijuana" does not include either marijuana-
5 infused products or marijuana concentrates.

6 ~~((nn))~~ (pp) "Designated provider" has the meaning provided in
7 RCW 69.51A.010.

8 ~~((oo))~~ (qq) "Qualifying patient" has the meaning provided in
9 RCW 69.51A.010.

10 ~~((pp))~~ (rr) "CBD concentration" has the meaning provided in RCW
11 69.51A.010.

12 ~~((qq))~~ (ss) "Plant" has the meaning provided in RCW 69.51A.010.

13 ~~((rr))~~ (tt) "Recognition card" has the meaning provided in RCW
14 69.51A.010.

15 PART X

16 Medical Use of Marijuana

17 **Sec. 1001.** RCW 69.51A.--- and 2015 c 70 s 26 are each amended to
18 read as follows:

19 (1) Qualifying patients or designated providers may form a
20 cooperative and share responsibility for acquiring and supplying the
21 resources needed to produce and process marijuana only for the
22 medical use of members of the cooperative. No more than four
23 qualifying patients or designated providers may become members of a
24 cooperative under this section and all members must hold valid
25 recognition cards. All members of the cooperative must be at least
26 twenty-one years old. The designated provider of a qualifying patient
27 who is under twenty-one years old may be a member of a cooperative on
28 the qualifying patient's behalf.

29 (2) ~~((Cooperatives may not be located within one mile of a~~
30 ~~marijuana retailer. People))~~ Qualifying patients and designated
31 providers who wish to form a cooperative must register the location
32 with the state liquor and cannabis board and this is the only
33 location where cooperative members may grow or process marijuana.
34 This registration must include the names of all participating members
35 and copies of each participant's recognition card. Only qualifying
36 patients or designated providers registered with the state liquor and
37 cannabis board in association with the location may participate in

1 growing or receive useable marijuana or marijuana-infused products
 2 grown at that location.

3 (3) No cooperative may be located in any of the following areas:
 4 (a) Within one mile of a marijuana retailer;
 5 (b) Within the smaller of either:
 6 (i) One thousand feet of the perimeter of the grounds of any
 7 elementary or secondary school, playground, recreation center or
 8 facility, child care center, public park, public transit center,
 9 library, or any game arcade that admission to which is not restricted
 10 to persons aged twenty-one years or older; or
 11 (ii) The area restricted by ordinance, if the cooperative is
 12 located in a city, county, or town that has passed an ordinance
 13 pursuant to RCW 69.50.331(8); or
 14 (c) Where prohibited by a city, town, or county zoning provision.

15 (4) The state liquor and cannabis board must deny the
 16 registration of any cooperative if the location ((is within one mile
 17 of a marijuana retailer)) does not comply with the requirements set
 18 forth in subsection (3) of this section.

19 ((+3+)) (5) If a qualifying patient or designated provider no
 20 longer participates in growing at the location, he or she must notify
 21 the state liquor and cannabis board within fifteen days of the date
 22 the qualifying patient or designated provider ceases participation.
 23 The state liquor and cannabis board must remove his or her name from
 24 connection to the cooperative. Additional qualifying patients or
 25 designated providers may not join the cooperative until sixty days
 26 have passed since the date on which the last qualifying patient or
 27 designated provider notifies the state liquor and cannabis board that
 28 he or she no longer participates in that cooperative.

29 ((+4+)) (6) Qualifying patients or designated providers who
 30 participate in a cooperative under this section:

31 (a) May grow up to the total amount of plants for which each
 32 participating member is authorized on their recognition cards, up to
 33 a maximum of sixty plants. At the location, the qualifying patients
 34 or designated providers may possess the amount of useable marijuana
 35 that can be produced with the number of plants permitted under this
 36 subsection, but no more than seventy-two ounces;

37 (b) May only participate in one cooperative;

38 (c) May only grow plants in the cooperative and if he or she
 39 grows plants in the cooperative may not grow plants elsewhere;

1 (d) Must provide assistance in growing plants. A monetary
 2 contribution or donation is not to be considered assistance under
 3 this section. Participants must provide nonmonetary resources and
 4 labor in order to participate; and

5 (e) May not sell, donate, or otherwise provide marijuana,
 6 marijuana concentrates, useable marijuana, or marijuana-infused
 7 products to a person who is not participating under this section.

8 ~~((+5+))~~ (7) The location of the cooperative must be the domicile
 9 of one of the participants. Only one cooperative may be located per
 10 property tax parcel. A copy of each participant's recognition card
 11 must be kept at the location at all times.

12 ~~((+6+))~~ (8) The state liquor and cannabis board may adopt rules
 13 to implement this section including:

14 (a) Any security requirements necessary to ensure the safety of
 15 the cooperative and to reduce the risk of diversion from the
 16 cooperative;

17 (b) A seed to sale traceability model that is similar to the seed
 18 to sale traceability model used by licensees that will allow the
 19 state liquor and cannabis board to track all marijuana grown in a
 20 cooperative.

21 ~~((+7+))~~ (9) The state liquor and cannabis board or law
 22 enforcement may inspect a cooperative registered under this section
 23 to ensure members are in compliance with this section. The state
 24 liquor and cannabis board must adopt rules on reasonable inspection
 25 hours and reasons for inspections.

26 NEW SECTION. Sec. 1002. A new section is added to chapter 42.56
 27 RCW to read as follows:

28 (1) Registration information submitted to the state liquor and
 29 cannabis board under RCW 69.51A.--- (section 26, chapter 70, Laws of
 30 2015) including the names of all participating members of a
 31 cooperative, copies of each member's recognition card, location of
 32 the cooperative, and other information required for registration by
 33 the state liquor and cannabis board is exempt from disclosure under
 34 this chapter.

35 (2) The definitions in this section apply throughout this section
 36 unless the context clearly requires otherwise.

37 (a) "Cooperative" means a cooperative established under RCW
 38 69.51A.--- (section 26, chapter 70, Laws of 2015) to produce and

1 process marijuana only for the medical use of members of the
2 cooperative.

3 (b) "Recognition card" has the same meaning as provided in RCW
4 69.51A.010.

5 **PART XI**
6 **Dedicated Marijuana Account**

7 **Sec. 1101.** RCW 69.50.530 and 2013 c 3 s 26 are each amended to
8 read as follows:

9 ~~((1) There shall be a fund, known as the dedicated marijuana~~
10 ~~fund, which shall consist of all marijuana excise taxes, license~~
11 ~~fees, penalties, forfeitures, and all other moneys, income, or~~
12 ~~revenue received by the state liquor control board from marijuana-~~
13 ~~related activities. The state treasurer shall be custodian of the~~
14 ~~fund.~~

15 ~~((2))~~ The dedicated marijuana account is created in the state
16 treasury. All moneys received by the state liquor ((control)) and
17 cannabis board, or any employee thereof, from marijuana-related
18 activities ((shall)) must be deposited ((each day in a depository
19 approved by the state treasurer and transferred to the state
20 treasurer to be credited to the dedicated marijuana fund.

21 ~~((3) Disbursements from the dedicated marijuana fund shall be on~~
22 ~~authorization of the state liquor control board or a duly authorized~~
23 ~~representative thereof))~~ in the account. Unless otherwise provided in
24 this act, all marijuana excise taxes collected from sales of
25 marijuana, useable marijuana, marijuana concentrates, and marijuana-
26 infused products under RCW 69.50.535, and the license fees,
27 penalties, and forfeitures derived under this chapter from marijuana
28 producer, marijuana processor, marijuana researcher, and marijuana
29 retailer licenses, must be deposited in the account. Moneys in the
30 account may only be spent after appropriation.

31 **PART XII**
32 **Synthetic Cannabinoids and Bath Salts**

33 **NEW SECTION. Sec. 1201.** A new section is added to chapter 69.50
34 RCW to read as follows:

35 (1) It is an unfair or deceptive practice under RCW 19.86.020 for
36 any person or entity to distribute, dispense, manufacture, display

1 for sale, offer for sale, attempt to sell, or sell to a purchaser any
 2 product that contains any amount of any synthetic cannabinoid. The
 3 legislature finds that practices covered by this section are matters
 4 vitally affecting the public interest for the purpose of applying the
 5 consumer protection act, chapter 19.86 RCW. Violations of this
 6 section are not reasonable in relation to the development and
 7 preservation of business.

8 (2) "Synthetic cannabinoid" includes any chemical compound
 9 identified in RCW 69.50.204(c)(30) or by the pharmacy quality
 10 assurance commission under RCW 69.50.201.

11 NEW SECTION. **Sec. 1202.** A new section is added to chapter 69.50
 12 RCW to read as follows:

13 It is an unfair or deceptive practice under RCW 19.86.020 for any
 14 person or entity to distribute, dispense, manufacture, display for
 15 sale, offer for sale, attempt to sell, or sell to a purchaser any
 16 product that contains any amount of any cathinone or methcathinone as
 17 identified in RCW 69.50.204(e) (3) and (5). The legislature finds
 18 that practices covered by this section are matters vitally affecting
 19 the public interest for the purpose of applying the consumer
 20 protection act, chapter 19.86 RCW. Violations of this section are not
 21 reasonable in relation to the development and preservation of
 22 business.

23 **Sec. 1203.** RCW 69.50.204 and 2010 c 177 s 2 are each amended to
 24 read as follows:

25 Unless specifically excepted by state or federal law or
 26 regulation or more specifically included in another schedule, the
 27 following controlled substances are listed in Schedule I:

28 (a) Any of the following opiates, including their isomers,
 29 esters, ethers, salts, and salts of isomers, esters, and ethers
 30 whenever the existence of these isomers, esters, ethers, and salts is
 31 possible within the specific chemical designation:

32 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-
 33 piperidinyl]-N-phenylacetamide);

34 (2) Acetylmethadol;

35 (3) Allylprodine;

36 (4) Alphacetylmethadol, except levo-alphacetylmethadol, also
 37 known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

38 (5) Alphameprodine;

- 1 (6) Alphamethadol;
- 2 (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)
- 3 ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-
- 4 propanilido) piperidine);
- 5 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
- 6 piperidinyl]-N-phenylpropanamide);
- 7 (9) Benzethidine;
- 8 (10) Betacetylmethadol;
- 9 (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-
- 10 piperidinyl]-N-phenylpropanamide);
- 11 (12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-
- 12 [1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-
- 13 phenylpropanamide;
- 14 (13) Betameprodine;
- 15 (14) Betamethadol;
- 16 (15) Betaprodine;
- 17 (16) Clonitazene;
- 18 (17) Dextromoramide;
- 19 (18) Diampromide;
- 20 (19) Diethylthiambutene;
- 21 (20) Difenoxin;
- 22 (21) Dimenoxadol;
- 23 (22) Dimepheptanol;
- 24 (23) Dimethylthiambutene;
- 25 (24) Dioxaphetyl butyrate;
- 26 (25) Dipipanone;
- 27 (26) Ethylmethylthiambutene;
- 28 (27) Etonitazene;
- 29 (28) Etoxeridine;
- 30 (29) Furethidine;
- 31 (30) Hydroxypethidine;
- 32 (31) Ketobemidone;
- 33 (32) Levomoramide;
- 34 (33) Levophenacylmorphan;
- 35 (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
- 36 piperidyl]-N-phenylprop anamide);
- 37 (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-
- 38 piperidinyl]-N-phenylpropanamide);
- 39 (36) Morpheridine;
- 40 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

- 1 (38) Noracymethadol;
- 2 (39) Norlevorphanol;
- 3 (40) Normethadone;
- 4 (41) Norpipanone;
- 5 (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-
- 6 phenethyl)-4-piperidinyl] propanamide);
- 7 (43) PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 8 (44) Phenadoxone;
- 9 (45) Phenampromide;
- 10 (46) Phenomorphan;
- 11 (47) Phenoperidine;
- 12 (48) Piritramide;
- 13 (49) Proheptazine;
- 14 (50) Properidine;
- 15 (51) Propiram;
- 16 (52) Racemoramide;
- 17 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-
- 18 propanamidine);
- 19 (54) Tilidine;
- 20 (55) Trimeperidine.
- 21 (b) Opium derivatives. Unless specifically excepted or unless
- 22 listed in another schedule, any of the following opium derivatives,
- 23 including their salts, isomers, and salts of isomers whenever the
- 24 existence of those salts, isomers, and salts of isomers is possible
- 25 within the specific chemical designation:
- 26 (1) Acetorphine;
- 27 (2) Acetyldihydrocodeine;
- 28 (3) Benzylmorphine;
- 29 (4) Codeine methylbromide;
- 30 (5) Codeine-N-Oxide;
- 31 (6) Cyprenorphine;
- 32 (7) Desomorphine;
- 33 (8) Dihydromorphine;
- 34 (9) Drotebanol;
- 35 (10) Etorphine, except hydrochloride salt;
- 36 (11) Heroin;
- 37 (12) Hydromorphenol;
- 38 (13) Methyldesorphine;
- 39 (14) Methyldihydromorphine;
- 40 (15) Morphine methylbromide;

- 1 (16) Morphine methylsulfonate;
- 2 (17) Morphine-N-Oxide;
- 3 (18) Myrophine;
- 4 (19) Nicocodeine;
- 5 (20) Nicomorphine;
- 6 (21) Normorphine;
- 7 (22) Pholcodine;
- 8 (23) Thebacon.
- 9 (c) Hallucinogenic substances. Unless specifically excepted or
- 10 unless listed in another schedule, any material, compound, mixture,
- 11 or preparation which contains any quantity of the following
- 12 hallucinogenic substances, including their salts, isomers, and salts
- 13 of isomers whenever the existence of those salts, isomers, and salts
- 14 of isomers is possible within the specific chemical designation. For
- 15 the purposes of this subsection only, the term "isomer" includes the
- 16 optical, position, and geometric isomers:
- 17 (1) Alpha-ethyltryptamine: Some trade or other names:
- 18 Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)
- 19 indole; a-ET; and AET;
- 20 (2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names:
- 21 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;
- 22 (3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other
- 23 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
- 24 DOB; 2C-B, nexus;
- 25 (4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-
- 26 dimethoxy-a-methylphenethylamine; 2,5-DMA;
- 27 (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 28 (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name:
- 29 2C-T-7;
- 30 (7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-
- 31 methylphenethylamine; paramethoxyamphetamine, PMA;
- 32 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 33 (9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other
- 34 names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and
- 35 "STP";
- 36 (10) 3,4-methylenedioxy amphetamine;
- 37 (11) 3,4-methylenedioxymethamphetamine (MDMA);
- 38 (12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-
- 39 ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA,
- 40 MDE, MDEA;

- 1 (13) N-hydroxy-3,4-methylenedioxyamphetamine also known as
2 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine,N-hydroxy
3 MDA;
- 4 (14) 3,4,5-trimethoxy amphetamine;
- 5 (15) Alpha-methyltryptamine: Other name: AMT;
- 6 (16) Bufotenine: Some trade or other names: 3-(beta-
7 Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-
8 indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine;
9 mappine;
- 10 (17) Diethyltryptamine: Some trade or other names: N,N-
11 Diethyltryptamine; DET;
- 12 (18) Dimethyltryptamine: Some trade or other names: DMT;
- 13 (19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;
- 14 (20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,
15 7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2)
16 azepino (5,4-b) indole; Tabernanthe iboga;
- 17 (21) Lysergic acid diethylamide;
- 18 (22) Marihuana or marijuana;
- 19 (23) Mescaline;
- 20 (24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-
21 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-
22 dibenzo[b,d]pyran; synhexyl;
- 23 (25) Peyote, meaning all parts of the plant presently classified
24 botanically as Lophophora Williamsii Lemaire, whether growing or not,
25 the seeds thereof, any extract from any part of such plant, and every
26 compound, manufacture, salts, derivative, mixture, or preparation of
27 such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812
28 (c), Schedule I (c)(12));
- 29 (26) N-ethyl-3-piperidyl benzilate;
- 30 (27) N-methyl-3-piperidyl benzilate;
- 31 (28) Psilocybin;
- 32 (29) Psilocyn;
- 33 (30) Tetrahydrocannabinols, meaning tetrahydrocannabinols
34 naturally contained in a plant of the genus Cannabis (cannabis
35 plant), as well as synthetic equivalents of the substances contained
36 in the plant, or in the resinous extractives of Cannabis, species,
37 and/or synthetic substances, derivatives, and their isomers with
38 similar chemical structure and pharmacological activity such as the
39 following:

- 1 (i) 1 - cis - or trans tetrahydrocannabinol, and their optical
 2 isomers, excluding tetrahydrocannabinol in sesame oil and
 3 encapsulated in a soft gelatin capsule in a drug product approved by
 4 the United States Food and Drug Administration;
- 5 (ii) 6 - cis - or trans tetrahydrocannabinol, and their optical
 6 isomers;
- 7 (iii) 3,4 - cis - or trans tetrahydrocannabinol, and its optical
 8 isomers; or
- 9 (iv) That is chemically synthesized and either:
- 10 (a) Has been demonstrated to have binding activity at one or more
 11 cannabinoid receptors; or
- 12 (b) Is a chemical analog or isomer of a compound that has been
 13 demonstrated to have binding activity at one or more cannabinoid
 14 receptors;
- 15 (Since nomenclature of these substances is not internationally
 16 standardized, compounds of these structures, regardless of numerical
 17 designation of atomic positions covered.)
- 18 (31) Ethylamine analog of phencyclidine: Some trade or other
 19 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)
 20 ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;
- 21 (32) Pyrrolidine analog of phencyclidine: Some trade or other
 22 names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;
- 23 (33) Thiophene analog of phencyclidine: Some trade or other
 24 names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienylanalog of
 25 phencyclidine; TPCP; TCP;
- 26 (34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other
 27 name is TCPy.
- 28 (d) Depressants. Unless specifically excepted or unless listed in
 29 another schedule, any material, compound, mixture, or preparation
 30 which contains any quantity of the following substances having a
 31 depressant effect on the central nervous system, including its salts,
 32 isomers, and salts of isomers whenever the existence of such salts,
 33 isomers, and salts of isomers is possible within the specific
 34 chemical designation.
- 35 (1) Gamma-hydroxybutyric acid: Some other names include GHB;
 36 gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid;
 37 sodium oxybate; sodium oxybutyrate;
- 38 (2) Mecloqualone;
- 39 (3) Methaqualone.

1 (e) Stimulants. Unless specifically excepted or unless listed in
 2 another schedule, any material, compound, mixture, or preparation
 3 which contains any quantity of the following substances having a
 4 stimulant effect on the central nervous system, including its salts,
 5 isomers, and salts of isomers:

6 (1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-
 7 oxazoline; or 4, 5-dihydro-5-phenyl-2-oxazolamine;

8 (2) N-Benzylpiperazine: Some other names: BZP, 1-benzylpiperazine;

9 (3) Cathinone, also known as 2-amino-1-phenyl-1-propanone,
 10 alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

11 (4) Fenethylamine;

12 (5) Methcathinone: Some other names: 2-(methylamino)-
 13 propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-
 14 phenylpropan-1-one; alpha-N-methylaminopropiophenone;
 15 monomethylpropion; ephedrone; N-methylcathinone; methylcathinone;
 16 AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and
 17 salts of optical isomers;

18 (6) (+-)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-
 19 phenyl-2-oxazolamine);

20 (7) N-ethylamphetamine;

21 (8) N,N-dimethylamphetamine: Some trade or other names: N,N-
 22 alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

23 The controlled substances in this section may be added,
 24 rescheduled, or deleted as provided for in RCW 69.50.201.

25 **Sec. 1204.** RCW 69.50.430 and 2015 c 265 s 36 are each amended to
 26 read as follows:

27 (1) Every adult offender convicted of a felony violation of RCW
 28 69.50.401 through 69.50.4013, 69.50.4015, 69.50.402, 69.50.403,
 29 69.50.406, 69.50.407, 69.50.410, or 69.50.415 (~~((shall))~~) must be fined
 30 one thousand dollars in addition to any other fine or penalty
 31 imposed. Unless the court finds the adult offender to be indigent,
 32 this additional fine (~~((shall))~~) may not be suspended or deferred by
 33 the court.

34 (2) On a second or subsequent conviction for violation of any of
 35 the laws listed in subsection (1) of this section, the adult offender
 36 (~~((shall))~~) must be fined two thousand dollars in addition to any other
 37 fine or penalty imposed. Unless the court finds the adult offender to
 38 be indigent, this additional fine (~~((shall))~~) may not be suspended or
 39 deferred by the court.

1 (3) In addition to any other civil or criminal penalty, every
 2 person who violates or causes another to violate RCW 69.50.401 by
 3 distributing, dispensing, manufacturing, displaying for sale,
 4 offering for sale, attempting to sell, or selling to a purchaser any
 5 product that contains any amount of any synthetic cannabinoid, as
 6 identified in RCW 69.50.204, must be fined not less than ten thousand
 7 dollars and not more than five hundred thousand dollars. If, however,
 8 the person who violates or causes another to violate RCW 69.50.401 by
 9 distributing, dispensing, manufacturing, displaying for sale,
 10 offering for sale, attempting to sell, or selling any product that
 11 contains any amount of any synthetic cannabinoid, as identified in
 12 RCW 69.50.204, to a purchaser under the age of eighteen, the minimum
 13 penalty is twenty-five thousand dollars if the person is at least two
 14 years older than the minor. Unless the court finds the person to be
 15 indigent, this additional fine may not be suspended or deferred by
 16 the court.

17 **NEW SECTION. Sec. 1205.** A new section is added to chapter 69.50
 18 RCW to read as follows:

19 In addition to any other civil or criminal penalty, every person
 20 who violates or causes another to violate RCW 69.50.401 by
 21 distributing, dispensing, manufacturing, displaying for sale,
 22 offering for sale, attempting to sell, or selling to a purchaser any
 23 product that contains any amount of any cathinone or methcathinone,
 24 as identified in RCW 69.50.204, must be fined not less than ten
 25 thousand dollars and not more than five hundred thousand dollars. If,
 26 however, the person who violates or causes another to violate RCW
 27 69.50.401 by distributing, dispensing, manufacturing, displaying for
 28 sale, offering for sale, attempting to sell, or selling any product
 29 that contains any amount of any cathinone or methcathinone, as
 30 identified in RCW 69.50.204, to a purchaser under the age of
 31 eighteen, the minimum penalty is twenty-five thousand dollars if the
 32 person is at least two years older than the minor. Unless the court
 33 finds the person to be indigent, this additional fine may not be
 34 suspended or deferred by the court.

35
 36

PART XIII

Restricting Certain Methods of Selling Marijuana

1 NEW SECTION. **Sec. 1301.** A new section is added to chapter 69.50
2 RCW to read as follows:

(1) A retailer licensed under this chapter is prohibited from operating a vending machine, as defined in RCW 82.08.080(3) for the sale of marijuana products at retail or a drive-through purchase facility where marijuana products are sold at retail and dispensed through a window or door to a purchaser who is either in or on a motor vehicle or otherwise located outside of the licensed premises at the time of sale.

10 (2) The state liquor and cannabis board may not issue, transfer,
11 or renew a marijuana retail license for any licensee in violation of
12 the provisions of subsection (1) of this section.

13 PART XIV
14 Marijuana Clubs

15 NEW SECTION. **Sec. 1401.** A new section is added to chapter 69.50
16 RCW to read as follows:

17 (1) It is unlawful for any person to conduct or maintain a
18 marijuana club by himself or herself or by associating with others,
19 or in any manner aid, assist, or abet in conducting or maintaining a
20 marijuana club.

21 (2) It is unlawful for any person to conduct or maintain a public
22 place where marijuana is held or stored, except as provided for a
23 licensee under this chapter, or consumption of marijuana is
24 permitted.

25 (3) Any person who violates this section is guilty of a class C
26 felony punishable under chapter 9A.20 RCW.

27 (4) The following definitions apply throughout this section
28 unless the context clearly requires otherwise.

29 (a) "Marijuana club" means a club, association, or other
30 business, for profit or otherwise, that conducts or maintains a
31 premises for the primary or incidental purpose of providing a
32 location where members or other persons may keep or consume marijuana
33 on the premises.

34 (b) "Public place" means, in addition to the definition provided
35 in RCW 66.04.010, any place to which admission is charged or for
36 which any pecuniary gain is realized by the owner or operator of such
37 place.

PART XV

Marijuana Research Licenses

1 **Sec. 1501.** RCW 69.50.--- and 2015 c 71 s 1 are each amended to
 2 read as follows:

3 (1) There shall be a marijuana research license that permits a
 4 licensee to produce, process, and possess marijuana for the following
 5 limited research purposes:

6 (a) To test chemical potency and composition levels;

7 (b) To conduct clinical investigations of marijuana-derived drug
 8 products;

9 (c) To conduct research on the efficacy and safety of
 10 administering marijuana as part of medical treatment; and

11 (d) To conduct genomic or agricultural research.

12 (2) As part of the application process for a marijuana research
 13 license, an applicant must submit to the life sciences discovery fund
 14 authority a description of the research that is intended to be
 15 conducted. The life sciences discovery fund authority must review the
 16 project and determine that it meets the requirements of subsection
 17 (1) of this section. If the life sciences discovery fund authority
 18 determines that the research project does not meet the requirements
 19 of subsection (1) of this section, the application must be denied.

20 (3) A marijuana research licensee may only sell marijuana grown
 21 or within its operation to other marijuana research licensees. The
 22 state liquor ((~~control~~)) and cannabis board may revoke a marijuana
 23 research license for violations of this subsection.

24 (4) A marijuana research licensee may contract with the
 25 University of Washington or Washington State University to perform
 26 research in conjunction with the university. All research projects,
 27 not including those projects conducted pursuant to a contract entered
 28 into under RCW 28B.20.502(3), must be approved by the life sciences
 29 discovery fund authority and meet the requirements of subsection (1)
 30 of this section.

31 (5) In establishing a marijuana research license, the state
 32 liquor ((~~control~~)) and cannabis board may adopt rules on the
 33 following:

34 (a) Application requirements;

35 (b) Marijuana research license renewal requirements, including
 36 whether additional research projects may be added or considered;

37 (c) Conditions for license revocation;

1 (d) Security measures to ensure marijuana is not diverted to
2 purposes other than research;

3 (e) Amount of plants, useable marijuana, marijuana concentrates,
4 or marijuana-infused products a licensee may have on its premises;

5 (f) Licensee reporting requirements;

6 (g) Conditions under which marijuana grown by marijuana
7 processors may be donated to marijuana research licensees; and

8 (h) Additional requirements deemed necessary by the state liquor
9 ~~((control))~~ and cannabis board.

10 (6) The production, processing, possession, delivery, donation,
11 and sale of marijuana in accordance with this section and the rules
12 adopted to implement and enforce it, by a validly licensed marijuana
13 researcher, shall not be a criminal or civil offense under Washington
14 state law. Every marijuana research license ~~((shall))~~ must be issued
15 in the name of the applicant, ~~((shall))~~ must specify the location at
16 which the marijuana researcher intends to operate, which must be
17 within the state of Washington, and the holder thereof ~~((shall))~~ may
18 not allow any other person to use the license.

19 (7) The application fee for a marijuana research license is two
20 hundred fifty dollars. The annual fee for issuance and renewal of a
21 marijuana research license is one thousand dollars. Fifty percent of
22 the application fee, the issuance fee, and the renewal fee must be
23 deposited to the life sciences discovery fund under RCW 43.350.070,
24 or, if that fund ceases to exist, to the general fund.

25 **Sec. 1502.** RCW 28B.20.502 and 2015 c 71 s 2 are each amended to
26 read as follows:

27 (1) The University of Washington and Washington State University
28 may conduct scientific research on the efficacy and safety of
29 administering marijuana as part of medical treatment. As part of this
30 research, the University of Washington and Washington State
31 University may develop and conduct studies to ascertain the general
32 medical safety and efficacy of marijuana, and may develop medical
33 guidelines for the appropriate administration and use of marijuana.

34 (2) The University of Washington and Washington State University
35 may, in accordance with RCW 69.50.--- (section 1, chapter 71, Laws of
36 2015), contract with marijuana research licensees to conduct research
37 permitted under this section and RCW 69.50.--- (section 1, chapter
38 71, Laws of 2015).

1 (3) The University of Washington and Washington State University
 2 may contract to conduct marijuana research with an entity licensed to
 3 conduct such research by a federally recognized Indian tribe located
 4 within the geographical boundaries of the state of Washington.

5 **Sec. 1503.** RCW 43.350.030 and 2015 c 71 s 3 are each amended to
 6 read as follows:

7 In addition to other powers and duties prescribed in this
 8 chapter, the authority is empowered to:

9 (1) Use public moneys in the life sciences discovery fund,
 10 leveraging those moneys with amounts received from other public and
 11 private sources in accordance with contribution agreements, to
 12 promote life sciences research;

13 (2) Solicit and receive gifts, grants, and bequests, and enter
 14 into contribution agreements with private entities and public
 15 entities other than the state to receive moneys in consideration of
 16 the authority's promise to leverage those moneys with amounts
 17 received through appropriations from the legislature and
 18 contributions from other public entities and private entities, in
 19 order to use those moneys to promote life sciences research. Nonstate
 20 moneys received by the authority for this purpose shall be deposited
 21 in the life sciences discovery fund created in RCW 43.350.070;

22 (3) Hold funds received by the authority in trust for their use
 23 pursuant to this chapter to promote life sciences research;

24 (4) Manage its funds, obligations, and investments as necessary
 25 and as consistent with its purpose including the segregation of
 26 revenues into separate funds and accounts;

27 (5) Make grants to entities pursuant to contract for the
 28 promotion of life sciences research to be conducted in the state.
 29 Grant agreements (~~shall~~) must specify deliverables to be provided
 30 by the recipient pursuant to the grant. The authority shall solicit
 31 requests for funding and evaluate the requests by reference to
 32 factors such as: (a) The quality of the proposed research; (b) its
 33 potential to improve health outcomes, with particular attention to
 34 the likelihood that it will also lower health care costs, substitute
 35 for a more costly diagnostic or treatment modality, or offer a
 36 breakthrough treatment for a particular disease or condition; (c) its
 37 potential for leveraging additional funding; (d) its potential to
 38 provide health care benefits or benefit human learning and
 39 development; (e) its potential to stimulate the health care delivery,

1 biomedical manufacturing, and life sciences related employment in the
2 state; (f) the geographic diversity of the grantees within
3 Washington; (g) evidence of potential royalty income and contractual
4 means to recapture such income for purposes of this chapter; and (h)
5 evidence of public and private collaboration;

6 (6) Create one or more advisory boards composed of scientists,
7 industrialists, and others familiar with life sciences research;

8 (7) Review and approve or disapprove marijuana research license
9 applications under RCW 69.50.--- (section 1, chapter 71, Laws of
10 2015);

11 (8) Review any reports made by marijuana research licensees under
12 state liquor ((~~control~~)) and cannabis board rule and provide the
13 state liquor ((~~control~~)) and cannabis board with its determination on
14 whether the research project continues to meet research
15 qualifications under RCW 69.50.---(1) (section 1, chapter 71, Laws of
16 2015); and

17 (9) Adopt policies and procedures to facilitate the orderly
18 process of grant application, review, and reward.

19 **Sec. 1504.** RCW 42.56.--- and 2015 c 71 s 4 are each amended to
20 read as follows:

21 Reports submitted by marijuana research licensees in accordance
22 with rules adopted by the state liquor ((~~control~~)) and cannabis board
23 under RCW 69.50.--- (section 1, chapter 71, Laws of 2015) that
24 contain proprietary information are exempt from disclosure under this
25 chapter.

26 **PART XVI**

27 **Miscellaneous Provisions**

28 **Sec. 1601.** RCW 69.50.342 and 2015 c 70 s 7 are each amended to
29 read as follows:

30 (1) For the purpose of carrying into effect the provisions of
31 chapter 3, Laws of 2013 according to their true intent or of
32 supplying any deficiency therein, the state liquor and cannabis board
33 may adopt rules not inconsistent with the spirit of chapter 3, Laws
34 of 2013 as are deemed necessary or advisable. Without limiting the
35 generality of the preceding sentence, the state liquor and cannabis
36 board is empowered to adopt rules regarding the following:

- 1 (a) The equipment and management of retail outlets and premises
- 2 where marijuana is produced or processed, and inspection of the
- 3 retail outlets and premises where marijuana is produced or processed;
- 4 (b) The books and records to be created and maintained by
- 5 licensees, the reports to be made thereon to the state liquor and
- 6 cannabis board, and inspection of the books and records;
- 7 (c) Methods of producing, processing, and packaging marijuana,
- 8 useable marijuana, marijuana concentrates, and marijuana-infused
- 9 products; conditions of sanitation; safe handling requirements;
- 10 approved pesticides and pesticide testing requirements; and standards
- 11 of ingredients, quality, and identity of marijuana, useable
- 12 marijuana, marijuana concentrates, and marijuana-infused products
- 13 produced, processed, packaged, or sold by licensees;
- 14 (d) Security requirements for retail outlets and premises where
- 15 marijuana is produced or processed, and safety protocols for
- 16 licensees and their employees;
- 17 (e) Screening, hiring, training, and supervising employees of
- 18 licensees;
- 19 (f) Retail outlet locations and hours of operation;
- 20 (g) Labeling requirements and restrictions on advertisement of
- 21 marijuana, useable marijuana, marijuana concentrates, cannabis health
- 22 and beauty aids, and marijuana-infused products for sale in retail
- 23 outlets;
- 24 (h) Forms to be used for purposes of this chapter and chapter
- 25 69.51A RCW or the rules adopted to implement and enforce these
- 26 chapters, the terms and conditions to be contained in licenses issued
- 27 under this chapter and chapter 69.51A RCW, and the qualifications for
- 28 receiving a license issued under this chapter and chapter 69.51A RCW,
- 29 including a criminal history record information check. The state
- 30 liquor and cannabis board may submit any criminal history record
- 31 information check to the Washington state patrol and to the
- 32 identification division of the federal bureau of investigation in
- 33 order that these agencies may search their records for prior arrests
- 34 and convictions of the individual or individuals who filled out the
- 35 forms. The state liquor and cannabis board (~~shall~~) must require
- 36 fingerprinting of any applicant whose criminal history record
- 37 information check is submitted to the federal bureau of
- 38 investigation;
- 39 (i) Application, reinstatement, and renewal fees for licenses
- 40 issued under this chapter and chapter 69.51A RCW, and fees for

1 anything done or permitted to be done under the rules adopted to
2 implement and enforce this chapter and chapter 69.51A RCW;

3 (j) The manner of giving and serving notices required by this
4 chapter and chapter 69.51A RCW or rules adopted to implement or
5 enforce these chapters;

6 (k) Times and periods when, and the manner, methods, and means by
7 which, licensees (~~shall~~) transport and deliver marijuana, marijuana
8 concentrates, useable marijuana, and marijuana-infused products
9 within the state;

10 (l) Identification, seizure, confiscation, destruction, or
11 donation to law enforcement for training purposes of all marijuana,
12 marijuana concentrates, useable marijuana, and marijuana-infused
13 products produced, processed, sold, or offered for sale within this
14 state which do not conform in all respects to the standards
15 prescribed by this chapter or chapter 69.51A RCW or the rules adopted
16 to implement and enforce these chapters.

17 (2) Rules adopted on retail outlets holding medical marijuana
18 endorsements must be adopted in coordination and consultation with
19 the department.

20 NEW SECTION. Sec. 1602. RCW 69.50.425 (Misdemeanor violations—
21 Minimum penalties) and 2015 c 265 s 35, 2002 c 175 s 44, & 1989 c 271
22 s 105 are each repealed.

23 NEW SECTION. Sec. 1603. (1) Subject to appropriation, if, in
24 addition to any distributions required by section 206 of this act,
25 funding of at least six million dollars per fiscal year for fiscal
26 years 2016 and 2017 is not provided by June 30, 2015, in the omnibus
27 appropriations act for distribution to local governments for
28 marijuana enforcement, this section is null and void. The
29 appropriation in the omnibus appropriations act must reference this
30 section by bill and section number. Distributions to local
31 governments are based on the distribution formula in subsection (2)
32 of this section.

33 (2)(a) The distribution amount allocated to each county,
34 including the portion for eligible cities within the county, is
35 ratably based on the total amount of taxable sales of marijuana
36 products subject to the marijuana excise tax under RCW 69.50.535 in
37 the prior fiscal year within the county, including all taxable sales
38 attributable to the incorporated areas within the county.

1 Distribution amounts allocated to each county, and eligible cities
2 within the county, must be distributed in four installments by the
3 last day of each fiscal quarter as follows.

4 (b) Sixty percent must be distributed to each county, except
5 where there is no eligible city with taxable sales of marijuana
6 products in the prior fiscal year, in which case the county must
7 receive one hundred percent of the distribution amount allocated to
8 the county as determined in (a) of this subsection. A county in which
9 the producing, processing, or retailing of marijuana products is
10 prohibited in the unincorporated area of the county is not entitled
11 to a distribution and the distribution amount must be distributed
12 instead to the eligible cities within the county as provided in (c)
13 of this subsection.

14 (c) After making any distribution to counties as provided in (b)
15 of this subsection, the treasurer must distribute the remaining
16 amount to eligible cities within the counties. The share to each
17 eligible city within a county must be determined by a division among
18 the eligible cities within each county ratably based on total sales,
19 from the prior fiscal year, of all marijuana products subject to the
20 marijuana excise tax under RCW 69.50.535 within the boundaries of
21 each eligible city located within the county. "Eligible city" means
22 any city or town in which sales of marijuana products are
23 attributable to a marijuana retailer, as defined in RCW 69.50.101,
24 located within the boundaries of the city or town.

25 (d) By September 15th of each year, the state liquor and cannabis
26 board must provide the state treasurer the annual distribution
27 amount, if any, for each county and city as determined in subsection
28 (2) of this section.

29 NEW SECTION. **Sec. 1604.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

33 NEW SECTION. **Sec. 1605.** (1) Except as provided otherwise in
34 this section, this act is necessary for the immediate preservation of
35 the public peace, health, or safety, or support of the state
36 government and its existing public institutions, and takes effect
37 July 1, 2015.

1 (2) Except for section 503 of this act, part V of this act takes
2 effect October 1, 2015.

3 (3) Sections 203 and 1001 of this act take effect July 1, 2016.

4 (4) Sections 302, 503, 901, 1204, and 1601 of this act and part
5 XV of this act are necessary for the immediate preservation of the
6 public peace, health, or safety, or support of the state government
7 and its existing public institutions, and take effect July 24, 2015.

Passed by the House June 26, 2015.

Passed by the Senate June 27, 2015.

Approved by the Governor June 30, 2015.

Filed in Office of Secretary of State June 30, 2015.

--- END ---

Policy 4.1.1.2 Update the adopted Master Plan and complete development of Moorlands Park.

Policy 5.1.3 Consider providing new facilities and facility upgrades to existing park lands to support new or existing recreation opportunities where appropriate.

Policy 7.1.4 Identify, and actively seek potential grant funding assistance from public and private sources for...renovation of Kenmore park lands.

Attachment 1



RCO Project Agreement For Office Administered Programs

Project Sponsor: City of Kenmore

Project Number: 14-1290D

Project Title: Moorlands Neighborhood Park Renovation

Approval Date: 7/10/2015

A. PARTIES OF THE AGREEMENT

This Project Agreement (Agreement) is entered into between the State of Washington the Recreation and Conservation Office, P.O. Box 40917, Olympia, Washington 98504-0917 and City of Kenmore (sponsor), PO Box 82607, Kenmore, WA 98028-0607 and shall be binding on the agents and all persons acting by or through the parties.

B. PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the State Building Construction Account and State Building Construction Account and ORA of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO) to the sponsor for the project named above per the director's authority granted in RCW 79A.25.020.

C. DESCRIPTION OF PROJECT

The City of Kenmore will use this grant to renovate existing facilities and develop new outdoor recreation opportunities at the Moorlands Neighborhood Park. The overall goal of the project is to improve the quality of existing recreation facilities, improve ADA access and increase the opportunities for outdoor recreation on the site. Renovation elements will include redeveloping a baseball field into a multipurpose field to accommodate youth baseball/softball, soccer and lacrosse with the overall goal being to improve quality of play, expand number of uses, and increase the size of facility. Additional features will include new fencing, children's playground, renovation of a small shelter for protection from the elements, paving existing gravel parking lot and park entry improvements. New facilities will include a 2-5 year old age appropriate playground, ADA accessible paved pathways throughout the park with connections to streets and city sidewalks, new restrooms, a picnic shelter, site furniture, general landscaping, stage for community programs. The primary focus of this grant is for active recreation.

D. PERIOD OF PERFORMANCE

The period of performance begins on December 1, 2015 (project start date) and ends on January 31, 2018 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement or specifically provided for by policies published in RCO manuals as of the effective date of this agreement.

The sponsor must request extensions of the period of performance at least 60 days before the project end date.

The sponsor has obligations beyond this period of performance as described in Section E: On-going Obligations.

E. ON-GOING OBLIGATIONS

For this development and renovation project, the sponsor's on-going obligations shall be in perpetuity and shall survive the completion/termination of this Project Agreement unless otherwise identified in the Agreement or as approved by the funding board. It is the intent of the funding board's conversion policy (see Section 24: Restriction of Conversion) that all lands acquired and/or facilities and areas developed, renovated, or restored with funding assistance remain in the public domain in perpetuity.

F. PROJECT FUNDING

The total grant award for this project shall not exceed \$637,520.00. RCO shall not pay any amount beyond that approved for grant funding of the project and within the RCO's percentage as identified below. The sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the sponsor shall be as indicated below:

	Percentage	Dollar Amount	Source of Funding
Office - RRG Local Parks	30.00%	\$500,000.00	State
Office - YAF - Renovation	8.25%	\$137,520.00	State
Project Sponsor	61.75%	\$1,029,405.00	
Total Project Cost	100.00%	\$1,666,925.00	

G. FEDERAL FUND INFORMATION

This Agreement is not a federal subaward. This Agreement is funded with a grant from the State of Washington.

H. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement shall be interpreted in light of the information provided in the sponsor's application and the project summary under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities and milestones report incorporated herein by reference. Provided, to the extent that information contained in such documents is inconsistent with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definition of the Standard Terms and Conditions.

I. AMENDMENTS MUST BE SIGNED IN WRITING

Except as provided herein, no amendment/deletions of any of the terms or conditions of this Agreement will be effective unless provided in writing and signed by both parties. Except, extensions of the period of performance and minor scope adjustments need only be signed by RCO's director or designee, unless the consent of the sponsor to an extension is required by its auditing policies, regulations, or legal requirements, in which case, no extension shall be effective until so consented.

J. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND RCFB-SRFB POLICIES

This agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, including any applicable policies published in RCO manuals as of the effective date of this agreement, all of which are incorporated herein by this reference as if fully set forth.

K. SPECIAL CONDITIONS

None

L. AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

Project Contact

Name: Ann Stanton
 Title: Parks Project Manager
 Address: PO Box 82607
 Kenmore, WA 98028
 Email: astanton@kenmorewa.gov

Office

Recreation and Conservation Office
 Natural Resources Building
 PO Box 40917
 Olympia, Washington 98504-0917

These addresses shall be effective until receipt by one party from the other of a written notice of any change.

M. ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

N. EFFECTIVE DATE

This Agreement, for project 14-1290D, shall be subject to the written approval of the RCO's authorized representative and shall not be effective and binding until the date signed by both the sponsor and the RCO, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in Section D: Period of Performance are allowed only when this Agreement is fully executed and an original is received by RCO.

The sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

City of Kenmore

By: _____

Date: _____

Name: (printed) _____

Title: _____

State of Washington, Recreation Conservation Office

By: _____

Date: _____

Kaleen Cottingham
Director
Recreation and Conservation Office

Pre-approved as to form:

By: /s/

Date: August 26, 2015

Assistant Attorney General

Standard Terms and Conditions of the Project Agreement

Table of Contents	Page
SECTION 1. CITATIONS, HEADINGS AND DEFINITIONS.....	6
SECTION 2. PERFORMANCE BY THE SPONSOR.....	7
SECTION 3. ASSIGNMENT.....	7
SECTION 4. RESPONSIBILITY FOR PROJECT.....	7
SECTION 5. INDEMNIFICATION.....	7
SECTION 6. INDEPENDENT CAPACITY OF THE SPONSOR.....	8
SECTION 7. CONFLICT OF INTEREST.....	8
SECTION 8. COMPLIANCE WITH APPLICABLE LAW.....	8
SECTION 9. RECORDS.....	9
SECTION 10. PROJECT FUNDING AND COSTS.....	9
SECTION 11. PROJECT REIMBURSEMENTS.....	10
SECTION 12. ADVANCE PAYMENTS.....	11
SECTION 13. RECOVERY OF PAYMENTS.....	11
SECTION 14. COVENANT AGAINST CONTINGENT FEES.....	11
SECTION 15. INCOME AND USE OF INCOME.....	11
SECTION 16. PROCUREMENT REQUIREMENTS.....	12
SECTION 17. TREATMENT OF EQUIPMENT.....	12
SECTION 18. RIGHT OF INSPECTION.....	12
SECTION 19. STEWARDSHIP AND MONITORING.....	12
SECTION 20. PREFERENCES FOR RESIDENTS.....	12
SECTION 21. ACKNOWLEDGMENT AND SIGNS.....	13
SECTION 22. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS.....	13
SECTION 23. PROVISIONS APPLYING TO ACQUISITION PROJECTS.....	13
SECTION 24. RESTRICTION ON CONVERSION OF REAL PROPERTY AND/OR FACILITIES TO OTHER USES.....	14
SECTION 25. CONSTRUCTION, OPERATION, USE AND MAINTENANCE OF ASSISTED PROJECTS..	15
SECTION 26. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS.....	15

SECTION 27.	PROVISIONS FOR FEDERAL SUBAWARDS ONLY.....	16
SECTION 28.	PROVISIONS FOR ESTUARY AND SALMON RESTORATION PROGRAM PROJECTS ONLY.....	17
SECTION 29.	ORDER OF PRECEDENCE.....	21
SECTION 30.	LIMITATION OF AUTHORITY.....	21
SECTION 31.	WAIVER OF DEFAULT.....	21
SECTION 32.	APPLICATION REPRESENTATIONS -- MISREPRESENTATIONS OR INACCURACY OR BREACH.....	21
SECTION 33.	SPECIFIC PERFORMANCE.....	21
SECTION 34.	TERMINATION.....	21
SECTION 35.	DISPUTE HEARING.....	22
SECTION 36.	ATTORNEYS' FEES.....	22
SECTION 37.	GOVERNING LAW/VENUE.....	22
SECTION 38.	PROVISIONS APPLICABLE ONLY IF FEDERALLY RECOGNIZED INDIAN TRIBE IS THE SPONSOR.....	22
SECTION 39.	SEVERABILITY.....	23

SECTION 1. CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version at the date of project Agreement and/or any revisions in the future.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:
- acquisition project** - A project that purchases or receives a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.
- Agreement or Project Agreement** - The document entitled "Project Agreement" accepted by all Parties to the present transaction, including without limitation these Standard Terms and Conditions, all attachments, addendums, and amendments, and any intergovernmental agreements or other documents that are incorporated into the Project Agreement subject to any limitations on their effect.
- applicant** - Any party that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds.
- application** - The documents and other materials that an applicant submits to the RCO to support the applicant's request for grant funds; this includes materials required for the "Application" in the RCO's automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.
- C.F.R.** - Code of Federal Regulations
- contractor** - An entity that receives a contract from a sponsor. A contract is a legal instrument by which a non-Federal entity (sponsor) purchases property or services to carry out the project or program under a Federal award. A contractor is not the same as the sponsor or subrecipient. A contract is for the purpose of obtaining goods and services for the non-Federal entity's (sponsor's) own use and creates a procurement relationship with the contractor (2 C.F.R. § 200.23 (2013)).
- development project** - A project that results in the construction of or work resulting in new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources.
- director** - The chief executive officer of the Recreation and Conservation Office or that person's designee.
- education project** - A project that provides information, education, and outreach programs for the benefit of outdoor recreationists.
- education and enforcement project** - A project that provides information, education, and outreach programs; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists.
- equipment** - Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).
- indirect cost** - Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitting, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).
- landowner agreement** - An agreement that is required between a sponsor and landowner for projects located on land not owned, or otherwise controlled, by the sponsor.
- maintenance project** - A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreationists.
- maintenance and operation project** - A project that maintains existing areas and facilities through repairs, upkeep, and routine servicing for the benefit of outdoor recreationists.
- match or matching share** - The portion of the total project cost provided by the sponsor.
- milestone** - An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.
- pass-through entity** - A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, the RCO is the pass-through or is acting as the pass-through entity on behalf of another state agency as identified in Section A: Parties to the Agreement.
- period of performance** - The time during which the sponsor may incur new obligations to carry out the work authorized under this Agreement (2 C.F.R. § 200.77 (2013)).
- planning project** - A project that results in an assessment, inventory, study, plan, project designs, constructions plans and specifications or permits.
- pre-agreement cost** - A project cost incurred before the period of performance.
- project** - An undertaking that is, or may be, funded in whole or in part with funds administered by RCO.
- project cost** - The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (2 C.F.R. § 200.83 (2013)).
- RCO** - Recreation and Conservation Office - The state office that administers the grant under this Agreement .
- reimbursement** - RCO's payment of funds from eligible and allowable costs that have already been paid by the sponsor per the terms of the Agreement.
- renovation project** - A project intended to improve an existing site or structure in order to increase its useful service life beyond original expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.
- restoration project** - A project that brings a site back to its historic function as part of a natural ecosystem or improves the ecological functionality of a site.
- RCW** - Revised Code of Washington

secondary sponsor - one of two or more eligible organizations that sponsors a grant-funded project. Of these two sponsors, only one - the primary sponsor - may be the fiscal agent.

sponsor or primary sponsor - The eligible applicant who has been awarded a grant of funds and is bound by this executed Agreement; includes its officers, employees, agents and successors. For projects funded with federal money, the sponsor is a subrecipient, which is a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency (2 C.F.R. § 200.93 (2013)).

subaward - An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract (2 C.F.R. § 200.92 (2013)). A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a Federal subaward, the subaward amount is the grant program amount in Section F: Project Funding Amount.

subrecipient - Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a Federal subaward, the sponsor is the subrecipient.

WAC - Washington Administrative Code.

SECTION 2. PERFORMANCE BY THE SPONSOR

The sponsor and secondary sponsor where applicable, shall undertake the project as described in this Agreement, the sponsor's application, and in accordance with the sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO. All submitted documents are incorporated by this reference as if fully set forth herein. Also see Section 29: Order of Precedence.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

SECTION 3. ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the sponsor without prior written consent of the RCO.

SECTION 4. RESPONSIBILITY FOR PROJECT

While the RCO undertakes to assist the sponsor with the project by providing a grant pursuant to this Agreement, the project itself remains the sole responsibility of the sponsor. The RCO undertakes no responsibilities to the sponsor, a secondary sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project is sponsored by more than one entity, any and all sponsors are equally responsible for the project and all post-completion stewardship responsibilities.

SECTION 5. INDEMNIFICATION

The sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence of, or the breach of any obligation under this Agreement by, the sponsor or the sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the sponsor may be legally liable.

Provided that nothing herein shall require a sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the sponsor or the sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor is legally liable, and (b) the State its employees and agents for whom it is vicariously liable, the indemnity obligation shall be valid and enforceable only to the extent of the sponsor's negligence or the negligence of the sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the sponsor may be legally liable.

This provision shall be included in any Agreement between sponsor and any contractors, subcontractors and vendors, of any tier.

The sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from an alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the sponsor or the sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the sponsor may be legally liable, in performance of the Work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to State, its agents, officers and employees pursuant to the Agreement; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to State, its agents, officers and employees by the sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or

any other persons for whom the sponsor may be legally liable.

The sponsor specifically assumes potential liability for actions brought by the sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51.

The RCO is included within the term State, as are all other agencies, departments, boards, or other entities of state government.

SECTION 6. INDEPENDENT CAPACITY OF THE SPONSOR

The sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO. The sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or of the state of Washington, nor will the sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06 or 28B.

The sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

SECTION 7. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the sponsor as it could pursue in the event of a breach of the Agreement by the sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

SECTION 8. COMPLIANCE WITH APPLICABLE LAW

The sponsor will implement the Agreement in accordance with applicable federal, state, and local laws, regulations and the RCO policies regardless of whether the sponsor is a public or non-public organization.

Pursuant to RCW 43.21C.0382, all of RCO's activities and programs are exempt from threshold determinations and environmental impact statement requirements.

The sponsor shall comply with, and RCO is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, and/or policies, including, but not limited to: State Environmental Policy Act; Industrial Insurance Coverage; Architectural Barriers Act; permits (shoreline, Hydraulics Project Approval, demolition); land use regulations (critical areas ordinances, Growth Management Act); federal and state safety and health regulations (Occupational Safety and Health Administration/Washington Industrial Safety and Health Act); and Buy American Act.

- A. **Nondiscrimination Laws.** The sponsor shall not discriminate against users of projects assisted with board funds on the basis of race, creed, color, sex, religion, national origin, disability, marital status, or sexual orientation and must comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act. In the event of the sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the sponsor may be declared ineligible for further grant awards from the RCO. The sponsor is responsible for any and all costs or liability arising from the sponsor's failure to so comply with applicable law.
- B. **Wages and Job Safety.** The sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington, which affect wages and job safety. The sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.040. The sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
- C. **Archaeological and Cultural Resources.** The RCO facilitates the review of applicable projects for potential impacts to archaeological sites and state cultural resources. The sponsor must assist RCO in compliance with Executive Order 05-05 or the National Historic Preservation Act before initiating ground-disturbing activity. The RCO requires documented compliance with Executive Order 05-05 or Section 106 of the National Historic Preservation Act, whichever is applicable to the project. If a federal agency declines to consult, the sponsor shall comply with the requirements of Executive Order 05-05. In the event that archaeological or historic materials are discovered during project activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following: concerned Tribes' cultural staff and cultural committees, RCO, and the State Department of Archaeology and Historic Preservation. If human remains are discovered during project activity, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification provided to the concerned Tribe's cultural staff and cultural committee, RCO, State Department of Archaeology, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.

- D. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.

No part of any funds provided under this grant shall be used to pay the salary or expenses of any sponsor, or agent acting for such sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

- E. **Debarment and Certification.** By signing the Agreement with RCO, the sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on the "Contractors not Allowed to Bid on Public Works Projects" list.

SECTION 9. RECORDS

- A. **Maintenance.** The sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years from the date RCO deems the project complete, as defined in Section 11: Project Reimbursements. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- B. **Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or Agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the sponsor's reports, including computer models and methodology for those models.
- C. **Public Records.** Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06. By submitting any record to the state, sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

SECTION 10. PROJECT FUNDING AND COSTS

- A. **Additional Amounts.** The RCO shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the director and incorporated by written amendment into this Agreement.
- B. **Before the Agreement.** No expenditure made, or obligation incurred, by the sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by RCO policy or the director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- C. **Requirements for Federal Subawards.** Pre-agreements costs before the federal award date in Section F: Project Funding Amount are ineligible unless approved by the federal award agency (2 C.F.R. § 200.458 (2013)).
- D. **After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

SECTION 11. PROJECT REIMBURSEMENTS

- A. **Reimbursement Basis.** This Agreement is administered on a reimbursement basis. The sponsors may only request reimbursement for eligible and allowable costs incurred during the period of performance. The sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in Section F: Project Funding Amount.

Reimbursement shall not be approved for any expenditure not incurred by the sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations, which the sponsor may use as part of its percentage. All reimbursement requests must include proper documentation of expenditures as required by RCO:

- B. **Escrow Payments.** Direct payment to an escrow account of the RCO's share of the approved cost of real property and related costs may be made following RCO approval when the sponsor indicates a temporary lack of funds to purchase the property on a reimbursement basis. Prior to release of the RCO's share into escrow, the sponsor must provide the RCO with a copy of a binding agreement between the sponsor and the seller, all required documentation, and evidence of deposit of the sponsor's share into an escrow account.
- C. **Reimbursement Request Frequency.** Sponsors are encouraged to send RCO a reimbursement request at least quarterly. Sponsors are required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recently published/adopted RCO policies and procedures regarding reimbursement requirements.
- D. **Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement by the sponsor.
- E. **Retainage Held Until Project Complete.** RCO reserves the right to withhold disbursement of up to the final ten percent (10%) of the total amount of the grant to the sponsor until the project has been completed. A project is considered "complete" when:
1. All approved or required activities outlined in the Agreement are done;
 2. On-site signs are in place (if applicable);
 3. A final project report is submitted to and accepted by RCO;
 4. Any other required documents are complete and submitted to RCO;
 5. A final reimbursement request is submitted to RCO;
 6. The completed project has been accepted by RCO;
 7. Final amendments have been processed;
 8. Fiscal transactions are complete; and
 9. RCO has accepted a final boundary map, if required for the project, for which the Agreement terms will apply in the future.
- F. **Sources of Eligible Match.** Applicant resources used to match board funds must be eligible in the grant program. Sources of matching resources include, but are not limited to, any one or more of the following:
1. Appropriations and cash;
 2. Value of the applicant's expenses for labor, materials, and equipment;
 3. Value of donated real property, labor, services, materials, and equipment use; and
 4. Other state or federal funds.
- G. **Requirements for Federal Subawards: Match.** The sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, must be accepted as part of the sponsor's matching share when such contributions meet all of the following criteria:
1. Are verifiable from the non-Federal entity's (sponsor's) records;
 2. Are not included as contributions for any other Federal award;
 3. Are necessary and reasonable for accomplishment of project or program objectives;
 4. Are allowable under 2 C.F.R. Part 200, Subpart E-Cost Principles (2013);
 5. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
 6. Are provided for in the approved budget when required by the Federal awarding agency identified in Section G: Federal Fund Information of this Agreement; and
 7. Conform to other provisions of 2 C.F.R. Part 200, Subpart D-Post Federal Award Requirements (2013), as applicable.

- H. **Requirements for Federal Subawards: Close out.** Per 2 C.F.R § 200.343 (2013), the non-Federal entity (sponsor) must:
1. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the sponsor.
 2. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
 3. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.
 4. Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property (2013).

SECTION 12. ADVANCE PAYMENTS

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements.

SECTION 13. RECOVERY OF PAYMENTS

- A. **Recovery for Noncompliance.** In the event that the sponsor fails to expend funds under this Agreement in accordance with state and federal laws, an applicable report from the state auditor's office, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. **Overpayment Payments.** The sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.
- C. **Requirements for Federal Subawards.** The pass-through entity (RCO) may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).
- D. **Deposit in State Account.** Any recovery of payments in this section will be deposited to the appropriate state account as identified in Section F: Project Funding.

SECTION 14. COVENANT AGAINST CONTINGENT FEES

The sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an Agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

SECTION 15. INCOME AND USE OF INCOME

- A. **Income.**
 1. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement.
 2. **Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored if the fees are consistent with the:
 - a. Value of any service(s) furnished;
 - b. Value of any opportunities furnished; and
 - c. Prevailing range of public fees in the state for the activity involved.
- B. **Use of Income.** Regardless of whether income or fees in a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) are gained during or after the reimbursement period cited in the Agreement, unless precluded by state or federal law, the revenue may only be used to offset:
 1. The sponsor's matching resources;
 2. The project's total cost;
 3. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by this project;
 4. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the sponsor's system; and/or
 5. Capital expenses for similar acquisition and/or development and renovation.
- C. **Requirements for Federal Subawards.** Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013).

SECTION 16. PROCUREMENT REQUIREMENTS

- A. **Procurement Requirements.** If sponsors have a procurement process that follows applicable state and/or required federal procurement principles, it must be followed. If no such process exists the sponsor must follow these minimum procedures:
1. Publish a notice to the public requesting bids/proposals for the project;
 2. Specify in the notice the date for submittal of bids/proposals;
 3. Specify in the notice the date for submittal of bids/proposals;
 4. Comply with the same legal standards regarding unlawful discrimination based upon race, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.
- This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any other entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.
- B. **Requirements for Federal Subawards.** For all Federal subawards, non-Federal entities (sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).

SECTION 17. TREATMENT OF EQUIPMENT

- A. **Discontinued Use.** Equipment shall remain in the possession of the sponsor for the duration of the project or applicable grant program. When the sponsor discontinues use of the equipment for the purpose for which it was funded, RCO will require the sponsor to deliver the equipment to RCO, dispose of the equipment according to RCO policies, or return the fair market value of the equipment to RCO. Equipment shall be used only for the purpose of this Agreement, unless otherwise provided herein or approved by RCO in writing.
- B. **Loss or Damage.** The sponsor shall be responsible for any loss or damage to equipment which results from the negligence of the sponsor or which results from the failure on the part of the sponsor to maintain and administer that equipment in accordance with sound management practices.
- C. **Requirements for Federal Subawards.** Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):
1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
 2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
 3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
 4. Adequate maintenance procedures must be developed to keep the property in good condition.
 5. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

SECTION 18. RIGHT OF INSPECTION

The sponsor shall provide right of access to the project to the RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement.

If a landowner agreement or other form of control and tenure as described in Section 22.B: Control and Tenure has been executed, it will further stipulate and define the RCO right to inspect and access lands acquired or developed with funding assistance.

SECTION 19. STEWARDSHIP AND MONITORING

Sponsor agrees to perform monitoring and stewardship functions as stated in policy documents approved by the RCO. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO.

SECTION 20. PREFERENCES FOR RESIDENTS

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Even so, the RCO discourages the imposition of differential fees. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

SECTION 21. ACKNOWLEDGMENT AND SIGNS

- A. **Publications.** The sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- B. **Signs.** The sponsor also shall post signs or other appropriate media during the period of performance and in the future at project entrances and other locations on the project which acknowledge the applicable grant program's funding contribution, unless exempted in the RCO policy or waived by the director.
- C. **Ceremonies.** The sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies.
- D. **Federally Funded Projects.** When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, sponsors shall clearly state:
 - 1. The fund source;
 - 2. The percentage of the total costs of the project that is financed with federal money;
 - 3. The dollar amount of federal funds for the project; and
 - 4. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

SECTION 22. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is for construction of land or facilities in a development, maintenance, renovation or restoration project:

- A. **Document Review and Approval.** The sponsor agrees to submit one copy of all construction plans and specifications to RCO for review prior to implementation or as otherwise identified in the milestones. Review and approval by RCO will be for compliance with the terms of this Agreement. Only change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval.
- B. **Control and Tenure.** The sponsor must provide documentation that shows appropriate tenure (landowner agreement, long-term lease, easement, or fee simple ownership) for the land proposed for construction. The documentation must meet current RCO requirements identified in the appropriate grant program policy manual as of the effective date of this Agreement.
- C. **Nondiscrimination.** Except where a nondiscrimination clause required by a federal funding agency is used, the sponsor shall insert the following nondiscrimination clause in each contract for construction of this project:
 "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."
- D. **Use of Best Management Practices.** Sponsors are encouraged to use best management practices developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include "Integrated Streambank Protection Guidelines", 2002; "Protecting Nearshore Habitat and Functions in Puget Sound", 2010; "Stream Habitat Restoration Guidelines", 2012; "Water Crossing Design Guidelines", 2013; and "Marine Shoreline Design Guidelines", 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in "Reducing Accidental Introductions of Invasive Species" which is available on the WISC Web site.

SECTION 23. PROVISIONS APPLYING TO ACQUISITION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition project:

- A. **Evidence of Land Value.** Before disbursement of funds by RCO as provided under this Agreement, the sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to RCO policy.
- B. **Evidence of Title.** The sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
- C. **Legal Description of Real Property Rights Acquired.** The legal description of the real property rights purchased with funding assistance provided through this project Agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the Agreement before final payment.
- D. **Conveyance of Rights to the State of Washington.** When real property rights (both fee simple and lesser interests) are acquired, the sponsor agrees to execute an appropriate document conveying certain rights and responsibilities to RCO, on behalf of the State of Washington. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
 - 1. **Deed of Right.** The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the sponsor has acquired a perpetual easement for public purposes.

2. **Assignment of Rights.** The Assignment of Rights document transfers certain rights such as access and enforcement to RCO. Sponsors shall use this document when an easement or lease is being acquired for habitat conservation or salmon recovery purposes. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 3. **Easements and Leases.** The sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
- E. **Real Property Acquisition and Relocation Assistance.**
1. **Federal Acquisition Policies.** When federal funds are part of this Agreement, the sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.
 2. **State Acquisition Policies.** When state funds are part of this Agreement, the sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, RCW 8.26, and WAC 468-100.
 3. **Housing and Relocation.** In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the sponsor agrees to provide any housing and relocation assistance required.
 4. **Condemnation.** Acquisition of real property through or as a direct result of condemnation is not eligible for funding in this Agreement. Acquisition of real property must be on a willing-seller basis.
- F. **Buildings and Structures.** In general, grant funds are to be used for outdoor recreation, habitat conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsors must consult RCO regarding compliance with Section 8.C.: Archaeological and Cultural Resources before structures are removed or demolished.
- G. **Hazardous Substances.**
1. **Certification.** The sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:
 - a. No hazardous substances were found on the site, or
 - b. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 2. **Responsibility.** Nothing in this provision alters the sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 3. **Hold Harmless.** The sponsor will defend, protect and hold harmless the RCO and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the sponsor is acquiring.
- H. **Requirements for Federal Subawards.** The non-Federal entity (sponsor) must submit reports at least annually on the status of real property in which the Federal Government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding agency or the pass-through entity (RCO), at its option, may require the sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or RCO may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years) (2 C.F.R. § 200.329 (2013)).

SECTION 24. RESTRICTION ON CONVERSION OF REAL PROPERTY AND/OR FACILITIES TO OTHER USES

- A. **Restriction on Conversion.** The sponsor shall not at any time convert any real property (including any interest therein) acquired, or facility developed, maintained, renovated, and/or restored pursuant to this Agreement to uses other than those purposes for which funds were approved without prior approval of the RCO in compliance with applicable statutes, rules, and RCO policies.

It is the intent of the RCO's conversion policy, current or as amended in the future, that all real property acquired or any project facilities developed, maintained, renovated, and/or restored with funding assistance remain in the public domain in perpetuity unless otherwise identified in Section E: On-going Obligations or as approved by the RCO.

- B. **Conversions Defined.** A conversion occurs under any of the following circumstances:
1. **Conveyance.** Interests in real property are conveyed for purposes inconsistent with the intent of the Agreement and the funding source. Interests in real property include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.
 2. **Use.** Non-eligible uses (public or private) are made of the project area or a portion of the project area.
 3. **Eligibility.** Non-eligible facilities are developed with the project area without prior approve of the RCO.
 4. **Termination of Use/Non-Conformance.** The property acquired or the project developed or restored no longer meets or conforms to the purpose of this Agreement or the funding source.
 5. **Public Access.** Closure of public access sites is for longer than 180 consecutive days.

- C. **Remedies for a Conversion.** The RCO shall only approve a conversion when the sponsor has demonstrated the following:
1. All practical alternatives to the conversion have been evaluated and rejected; and
 2. The sponsor agrees to replace the entire project area or the portion of the project area affected by the conversion and assume the obligations described in Section E: On-going Obligations on the replacement property or facilities. The replacement must:
 - (a) Be of equivalent or greater usefulness and location as the original project in this Agreement;
 - (b) Be managed by the sponsor unless otherwise approved by the RCO;
 - (c) Be eligible to receive a grant from the source of funds from which this project was originally funded, unless otherwise authorized by RCO;
 - (d) If an acquisition project, be interest in real property of at least equal market value and public benefit at the time of replacement;
 - (e) If a development, renovation, or maintenance project, provide a facility of at least equal market value and public benefit as that which existed at the time of the original investment of RCO funds; and
 - (f) If a restoration project, provide restoration activities necessary to replicate the ecological benefit intended by the project; and
 3. Publish a notice of the proposed conversion and replacement and provide the public an opportunity to comment;
- D. **Change of Use.** When approved by RCO, certain activities within the eligible scope activities of this project may be removed from this Agreement without invoking a conversion. Removing activities is allowed when the RCO determines that the activities are not needed or cannot be retained due to one or more of the following conditions:
1. Obsolescence,
 2. Extraordinary vandalism,
 3. Acts of nature,
 4. Designed useful service life expectancy reached,
 5. Fire,
 6. Property or property rights lost as a result of legal action, or
 7. National Trails System Act reversion order.
- E. **Documentation.** Any conversion or change of use will be documented through a formal written amendment to this Agreement and signed by RCO and the sponsor.

SECTION 25. CONSTRUCTION, OPERATION, USE AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition, development, maintenance, renovation or restoration project:

- A. **Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with the RCO funds, including undeveloped sites, are built, operated, used, and maintained:
1. According to applicable federal, state, and local laws and regulations, including public health standards and building codes.
 2. In a reasonably safe condition for the project's intended use.
 3. Throughout its estimated useful service life so as to prevent undue deterioration.
 4. In compliance with all federal and state nondiscrimination laws, regulations and policies.
- B. **Open to the public.** Facilities open and accessible to the general public must:
1. Be constructed and maintained to meet or exceed the minimum requirements of the most current local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as updated.
 2. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
 3. Be available for use by the general public without reservation at reasonable hours and times of the year, according to the type of area or facility.

SECTION 26. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS

A corporate sponsor, including any nonprofit sponsor, shall:

- A. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the sponsor's obligation to the project as identified in the Agreement.
- B. Notify RCO prior to corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution, the sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the sponsor's obligation to the qualified successor if requirements are met.
- C. Sites or facilities open to the public may not require exclusive use, (e.g., members only).

SECTION 27. PROVISIONS FOR FEDERAL SUBAWARDS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded with a federal subaward as identified in Section G: Federal Fund Information.

- A. **Equal Employment Opportunity.** Except as otherwise provided under 41 C.F.R. 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 Fed. Reg. 12319, 12935, 3 C.F.R. 1964, 1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Federally assisted construction contract means any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work. (41 C.F.R. § 60-1.3)

Construction work means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction. (41 C.F.R. § 60-1.3)

- B. **Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).** When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities (sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity (sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section G: Federal Fund Information.

The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient (sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section G: Federal Fund Information.

- C. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-Federal entity (sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- D. **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient (sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient (sponsor) must comply with the requirements of 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- E. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section G: Federal Fund Information and the Regional Office of the Environmental Protection Agency (EPA).

- F. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- G. **Procurement of Recovered Materials.** A non-Federal entity (sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- H. **Required Insurance.** The non-Federal entity (sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the non-Federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R. § 200.310 (2013)).
- I. **Debarment and Suspension (Executive Orders 12549 and 12689).** The sponsor must not award a contract (see 2 C.F.R. § 180.220) to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R. § 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

SECTION 28. PROVISIONS FOR ESTUARY AND SALMON RESTORATION PROGRAM PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded from the Estuary and Salmon Restoration Program or the Marine Shoreline Protection program.

The sponsor shall comply with all applicable federal, State, and local laws, rules, and regulations in carrying out the terms and conditions of this Agreement.

A. Administrative Conditions

1. **Cost Principles.** The sponsor agrees to comply with the cost principles of 2 C.F.R. Part 200 (2013). Unless otherwise indicated, the Cost Principles apply to the use of funds provided under this Agreement and In-kind matching donations. The applicability of the Cost Principles depends on the type of organization incurring the costs.
2. **Audit Requirements.** The sponsor shall fully comply with requirements of 2 C.F.R. Part 200, Subpart F- Audit Requirements (2013), if applicable. See also Section F: Project Funding Amount.
3. **Hotel-Motel Fire Safety Act.** Pursuant to 40 C.F.R. 30.18, if applicable, and 15 U.S.C 2225a, sponsor agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). The sponsor may search the Hotel-Motel National Master List at: <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.
4. **Recycled Paper**
 - a. **Institutions of Higher Education Hospitals and Non-Profit Organizations.** In accordance with 40 C.F.R. 30.16, sponsor agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this Agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.
 - b. **State Agencies and Political Subdivisions.** In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchases of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 C.F.R. 247.
 - c. **State and Local Institutions of Higher Education and Non-Profit Organizations.** In accordance with 40 C.F.R. § 30.16, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines.

- d. **State Tribal and Local Government Recipients.** In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), the sponsor agrees to use recycled paper and double sided printing for all reports which are prepared a part of this Agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.
5. **Lobbying.** The sponsor agrees to comply with Title 40 C.F.R. Part 34, New Restrictions on Lobbying. The sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure. See also Section 11: Compliance with Applicable Federal Laws.

- a. **Part 30 Recipients.** All contracts awarded by the sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at Title 40 CFR Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, the sponsor affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- b. **Lobbying and Litigation.** The sponsor's chief executive officer shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The sponsor shall abide by its respective Appendix in 2 C.F.R. Part 200, which prohibits the use of Federal grant funds for litigation against the United States or for lobbying or other political activities.
6. **Suspension and Debarment.** The sponsor shall fully comply with Subpart C of 2 C.F.R. Part 180 and 2 C.F.R. Part 1532, entitled 'Responsibilities of Participants Regarding Transaction (Doing Business with Other Persons)'. The sponsor is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 C.F.R. Part 180 and 2 C.F.R. Part 1532, entitled 'Covered Transactions', includes a term or condition requiring compliance with Subpart C. The sponsor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. The sponsor acknowledges that failing to disclose the information as required at 2 C.F.R. § 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

The sponsor may access the Excluded Parties List System at: <http://www.epls.gov>. This term and condition supersedes EPA Form 5700-49, 'Certification Regarding Debarment, Suspension, and Other Responsibility Matters'. See also Section 27: Provisions for Federal Subawards Only.

7. **Drug-Free Workplace Certification.** The sponsor must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the sponsor must identify all known workplaces under its federal award; and keep this information on file during the performance of the award.
 - a. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C.
 - b. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E. The sponsor can access 2 C.F.R. Part 1536 at <http://ecfr.gpoaccess.gov>.
8. **Management Fees.** Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except to the extent authorized as a direct cost of carrying out the scope of work.
9. **Reimbursement Limitation.** If the sponsor expends more than the grant amount in this Agreement in its approved budget in anticipation of receiving additional funds, it does so at its own risk. The Federal Government and RCO is not legally obligated to reimburse the sponsor for costs incurred in excess of the approved budget. See also Section 11: Project Reimbursements.
10. **Trafficking in Persons.** The following prohibition statement applies to the sponsor, and all sub-awardees of the sponsor. The sponsor must include this statement in all sub-awards made to any private entity under this Agreement.

"YOU AS THE SUB-RECIPIENT, YOUR EMPLOYEES, SUB-AWARDEES UNDER THIS AWARD, AND SUB-AWARDEES' EMPLOYEES MAY NOT ENGAGE IN SEVERE FORMS OF TRAFFICKING IN PERSONS DURING THE PERIOD OF TIME THAT THE AWARD IS IN EFFECT; PROCURE A COMMERCIAL SEX ACT DURING THE PERIOD OF TIME THAT THE AWARD IS IN EFFECT; OR USE FORCED LABOR IN THE PERFORMANCE OF THE AWARD OR SUB-AWARDS UNDER THIS AWARD."

11. **DUNS and CCR Requirements.** Unless otherwise exempted from this requirement under 2 C.F.R. § 25.110, the sponsor must maintain the currency of its information in the Central Contractor Registry (CCR) until submission of its final financial report required under this Agreement or receive the final payment, whichever is later.

The sponsor may not make a sub-award to any entity unless the entity has provided its DUNS number to the sponsor.

12. **FY2011 ACORN Funding Restriction.** No funds provided under this Agreement may be used for sub-awards/sub-grants or contracts to the Association of Community Organizations for Reform NOW (ACORN) or any of its subsidiaries.
13. **Disadvantaged Business Enterprise Requirements, General Compliance.** The sponsor agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements, contained in 40 C.F.R. Part 33.
14. **Sub-Awards.** If the sponsor makes sub-awards under this Agreement, the sponsor is responsible for selecting its sub-awardees and, if applicable, for conducting sub-award competitions. The sponsor agrees to:
 - a. Establish all sub-award agreements in writing;
 - b. Maintain primary responsibility for ensuring successful completion of the approved project (SPONSORS CANNOT DELEGATE OR TRANSFER THIS RESPONSIBILITY TO A SUB-AWARDEE);
 - c. Ensure that any sub-awards comply with the standards in 2 C.F.R. Part 200, and are not used to acquire commercial goods or services for the sub-awardee;
 - d. Ensure that any sub-awards to 501(c)(4) organizations do not involve lobbying activities;
 - e. Monitor the performance of sub-awardees, and ensure sub-awardees comply with all applicable regulations, statutes, and terms and conditions which flow down in the sub-award;
 - f. Obtain RCO's consent before making a sub-award to a foreign or international organization, or a sub-award to be performed in a foreign country; and
 - g. Obtain approval from RCO for any new sub-award work that is not outlined in the approved work plan in accordance with 40 C.F.R. Parts 30.25 and 31.30, as applicable.
15. **Federal Employees.** No Subcontract or grant funds may be used to provide any Federal Employee transportation assistance, reimbursement, and any other expense.
16. **Fly America Act.** The sponsor agrees to comply with 49 U.S.C. 40118 (the "Fly America" act) in accordance with the General Services Administration's regulations at 41 C.F.R. Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The sponsor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The sponsor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.
17. **Recovered Materials.** The sponsor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247. See also Section 27: Provisions for Federal Subawards Only.
18. **Copeland "Anti-Kickback" Act.** All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency. See also Section 27: Provisions for Federal Subawards Only.
19. **Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7).** When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency. See also Section 27: Provisions for Federal Subawards Only.

20. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333).** Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. See also Section 27: Provisions for Federal Subawards Only.
 21. **Rights to Inventions Made Under a Contract or Agreement.** Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 C.F.R. Part 401, "Rights to Inventions made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. See also Section 27: Provisions for Federal Subawards Only.
 22. **FY12 APPR ACT: Unpaid Federal Tax liabilities and Federal Felony Convictions.** This Agreement is subject to the provisions contained in the Department of Interior, Environment, and Related Agencies Appropriations Act, 2012, HR 2055, Division E, Sections 433 and 434 regarding unpaid federal tax liabilities and federal felony convictions. Accordingly, by accepting this award the recipient acknowledges that it (1) is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal conviction under and Federal law within 24 months preceding the award, unless EPA has considered suspension or debarment of the corporation, or such officer or agent, based on these tax liabilities or convictions and determined that such action is not necessary to such action is not necessary to protect the Government's interests. If the recipient fails to comply with these provisions, EPA will annul this agreement and may recover any funds the recipient has expended in violation of sections 433 and 434.
- B. Programmatic Conditions:**
1. **Semi-Annual Financial and Ecosystem Accounting Tracking System (FEATS) Performance Reports.** The sponsor is required to submit performance reports every six months, unless a different reporting frequency is outlined in the Scope of Work, using the reporting tool supplied by RCO. The sponsor agrees to include brief information on each of the following areas:
 - (a) Comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period;
 - (b) The reasons for slippages if established outputs/outcomes were not met; AND
 - (c) Additional pertinent information, including when appropriate, analysis and information of cost overruns or high unit costs.

Reporting periods are from October 1 to March 31 and April 1 to September 30. Performance reports are due to RCO 15 calendar days after the end of each reporting period.
 2. **Final Performance Report.** In addition to the periodic performance reports, the sub-recipient will submit a final performance report to RCO within 60 calendar days after the expiration or termination of the award. The report shall be submitted to the RCO Grant Manager and must be provided electronically. The report shall generally contain the same information as in the periodic reports, but should cover the entire project period.
 3. **Recognition of EPA Funding.** Reports, documents, signage, videos, or other media, developed as part of projects funded by this Agreement shall contain the following statement:

"THIS PROJECT HAS BEEN FUNDED WHOLLY OR IN PART BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER ASSISTANCE AGREEMENT [EPA agreement number] TO WASHINGTON DEPARTMENT OF FISH AND WILDLIFE. THE CONTENTS OF THIS DOCUMENT DO NOT NECESSARILY REFLECT THE VIEWS AND POLICIES OF THE ENVIRONMENTAL PROTECTION AGENCY, NOR DOES MENTION OF TRADE NAMES OR COMMERCIAL PRODUCTS CONSTITUTE ENDORSEMENT OR RECOMMENDATION FOR USE."
 4. **Copyrighted Material.** EPA has the right to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes.

RCO acknowledges that EPA may authorize another grantee to use copyrighted works or other data developed under this Agreement as a result of: a) the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or; b) termination or expiration of this agreement.
 5. **Peer Review.** The results of this project may affect management decisions relating to Puget Sound. Prior to finalizing any significant technical products, the Principal Investigator (PI) of this project must solicit advice, review and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the RCO Grants Manager prior to releasing any final reports or products resulting from the funded study.

6. **Quality Assurance Requirements.** Acceptable Quality Assurance documentation must be submitted to the Grant Program within 30 days of acceptance of this agreement or another date as negotiated with the RCO Grants Manager. The National Estuary Program (NEP) Quality Coordinator supports quality assurance for EPA-funded NEP projects. No work involving direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology shall be initiated under an agreement until RCO or the NEP Quality Coordinator has approved the quality assurance document. The sponsor will submit all Quality Assurance documentation to the following address. Please copy the Grant Program on all correspondence with the NEP Quality Coordinator: Thomas H. Gries, NEP Quality Coordinator Department of Ecology Tgri460@ecy.wa.gov 360.407.6327.
7. **Environmental Data and Information Technology.** Sub-recipients are required to institute standardized reporting requirements into their work plans and include such costs in their budgets. All environmental data will be required to be entered into the EPA's Storage and Retrieval data system (STORET). The best method (local or state consolidated) for reporting will be determined on a project-by-project basis between the DFW grant manager and sub-recipient. More information about STORET can be found at <http://www.epa.gov/STORET>.

SECTION 29. ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute, rule, or policy or procedure, the inconsistency shall be resolved by giving precedence in the following order:

- A. Federal law and binding executive orders;
- B. Code of federal regulations;
- C. Terms and conditions of a grant award to the state from the federal government;
- D. Federal grant program policies and procedures adopted by a federal agency;
- E. State law;
- F. Washington Administrative Code;
- G. Project Agreement;
- H. The RCO policies and procedures.

SECTION 30. LIMITATION OF AUTHORITY

Only RCO or RCO's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by RCO.

SECTION 31. WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached to the original Agreement.

SECTION 32. APPLICATION REPRESENTATIONS -- MISREPRESENTATIONS OR INACCURACY OR BREACH

The RCO rely on the sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

SECTION 33. SPECIFIC PERFORMANCE

The RCO may enforce this Agreement by the remedy of specific performance, which usually will mean completion of the project as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity.

SECTION 34. TERMINATION

The RCO will require strict compliance by the sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules and all the RCO policies, and with the representations of the sponsor in its application for a grant as finally approved by the RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.

- A. **For Cause.** The director may suspend or terminate the obligation to provide funding to the sponsor under this Agreement:
 1. In the event of any breach by the sponsor of any of the sponsor's obligations under this Agreement; or
 2. If the sponsor fails to make progress satisfactory to the director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines

In the event this Agreement is terminated by the director, under this section or any other section after any portion of the grant amount has been paid to the sponsor under this Agreement, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived.

- B. **Non Availability of Funds.** The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the sponsor.
- C. **For Convenience.** Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

SECTION 35. DISPUTE HEARING

Except as may otherwise be provided in this Agreement, when a dispute arises between the sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the Parties;
- C. The sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the third person shall be chosen by the director.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the Parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The Parties shall be bound by the decision of the disputes panel, unless the remedy directed by that panel shall be without the authority of an affected Party to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written Agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the Parties.

SECTION 36. ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

SECTION 37. GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise, venue shall be in a county where the project is situated. The sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

SECTION 38. PROVISIONS APPLICABLE ONLY IF FEDERALLY RECOGNIZED INDIAN TRIBE IS THE SPONSOR

In the cases where this Agreement is between the RCO (State) and a federally recognized Indian Tribe, the following governing law/venue applies, but only between those Parties:

- A. Notwithstanding the above venue provision, if the State of Washington intends to initiate a lawsuit against a federally recognized Indian tribe relating to the performance, breach or enforcement of this Agreement, it shall so notify the Tribe. If the Tribe believes that a good faith basis exists for subject matter jurisdiction of such a lawsuit in federal court, the Tribe shall so notify the State within five days of receipt of such notice and state the basis for such jurisdiction. If the Tribe so notifies the State, the State shall bring such lawsuit in federal court, otherwise the State may sue the Tribe in the Thurston County Superior Court. Interpretation of the Agreement shall be according to applicable State law, except to the extent preempted by federal law. In the event suit is brought in federal court and the federal court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the Parties agree to venue in Thurston County Superior Court.
- B. Any judicial award, determination, order, decree or other relief, whether in law or equity or otherwise, resulting from such a lawsuit shall be binding and enforceable on the Parties. Any money judgment or award against a Tribe, tribal officers, employees, and members, or the State of Washington and its officers and employees may exceed the amount provided for in Section F: Project Funding Amount of the Agreement in order to satisfy the judgment.

- C. The Tribe hereby waives its sovereign immunity for suit in federal and state court for the limited purpose of allowing the State to bring such actions as it determines necessary to give effect to this section and to the enforcement of any judgment relating to the performance, or breach of this Agreement. This waiver is not for the benefit of any third party and shall not be enforceable by any third party or by any assignee of the Parties. In any enforcement action, the Parties shall bear their own enforcement costs, including attorneys' fees.

For purposes of this provision, the State includes the RCO and any other state agencies that may be assigned or otherwise obtain the right of the RCO to enforce this Agreement.

SECTION 39. SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

Eligible Scope Activities

Project Sponsor: City of Kenmore

Project Number: 14-1290

Project Title: Moorlands Neighborhood Park Renovation

Project Type: Development

Program: RRG Local Parks

Approval: 7/10/2015

Project Metrics

Sites Improved

Project acres developed:	2.00
Project acres renovated:	1.60

Development Metrics

Worksite #1, Moorlands Neighborhood Park

Athletic Fields

Baseball field development

Number of baseball fields:	0 new, 1 renovated
Number of baseball fields with lighting:	0 new, 0 renovated
Number of baseball fields by surface type:	
Synthetic	0
Natural	1

Multi-purpose field development

Number of multi-purpose fields:	0 new, 3 renovated
	<i>This includes an overlay of soccer in the outfield and includes an informal "T" ball practice field in the turf area.</i>
Number of multi-purpose fields with lighting:	0 new, 0 renovated

Buildings and Structures

Construct / install restroom

Number of restrooms:	1 new, 0 renovated
Select the restroom type :	Restroom

Construct amphitheater/stage

Number of amphitheaters:	0 new, 0 renovated
Number of amphitheater stages:	1 new, 0 renovated

This is a small circular stage half of which contains a small riser and concrete stage with the rear half containing a planter. The cost for the planter and stage are contained here. The purpose of the stage is a gathering point for summer camps and educational instruction and interpretation on the environment and safety for children attending the camps. The diameter of the circular stage is approximately 25 feet.

Select the amphitheater seating type:

Sloped lawn area
really a flat concrete area in front of stage. Chairs can be brought in or people can stand.

Eligible Scope Activities

General Site Improvements

Construct picnic shelter

Number of group picnic shelters:

1 new, 1 renovated

One is a new picnic shelter for group picnics. The other is simply a renovated shelter for cover from the elements to replace an existing shelter on site.

Develop paths/walkways

Select the surface of the path/walkway:

Linear feet of path/walkway:

Asphalt

Walkway lighting provided (yes/no):

1700

Number of walkway bridges:

No

0 new, 0 renovated

Install fencing/barriers

Install general site structures

Select one or more of the sheltered structures included in the project:

Other

Select one or more of the surface structures included in the project:

None

Install signs/kiosk

Number of kiosks:

0 new, 0 renovated

Number of interpretive signs/displays:

1 new, 0 renovated

Number of permanent entrance signs:

Interpretation of Mature Fir Trees

Number of electronic signs:

4 new, 0 renovated

Project involves installation of informational signs (yes/no):

0 new, 0 renovated

Yes

Regulatory

Install site furnishings

Landscaping improvements

Acres of landscaped area :

0.40

Select the landscape features:

Grass/turf, Groundcover, Irrigation,
Native vegetation, Planters,
Trees/shrubs

Parking and Roads

Parking development

Number of vehicle parking stalls:

0 new, 6 renovated

Number of vehicle with trailer parking stalls:

0 new, 0 renovated

Number of accessible parking stalls:

Vehicle with trailers

0

Vehicle

1

Select the parking surfaces :

Asphalt

Select the parking enhancements:

Curbs, Striping, Wheel stops

Play Areas

Playground development

Number of play areas:

1 new, 1 renovated

Number of climbing walls/rocks:

1 new, 0 renovated

Select the play area surface material type:

Engineered wood fiber

Site Preparation

General site preparation

Eligible Scope Activities

Utilities

Install power utilities

Select the power utilities:

General service connection

Install sewage system

Number of dump stations:

0 new, 0 renovated

Select the sewer utilities:

Sewer connection, Sewer line

Install stormwater system

Select the stormwater utilities:

Bio filtration swale, Catch basins, Rain garden, Stormwater line

Install water system

Select the water utilities:

Water service connection

Cultural Resources

Cultural resources

Permits

Obtain permits

Architectural & Engineering

Architectural & Engineering (A&E)

Milestone Report By Project

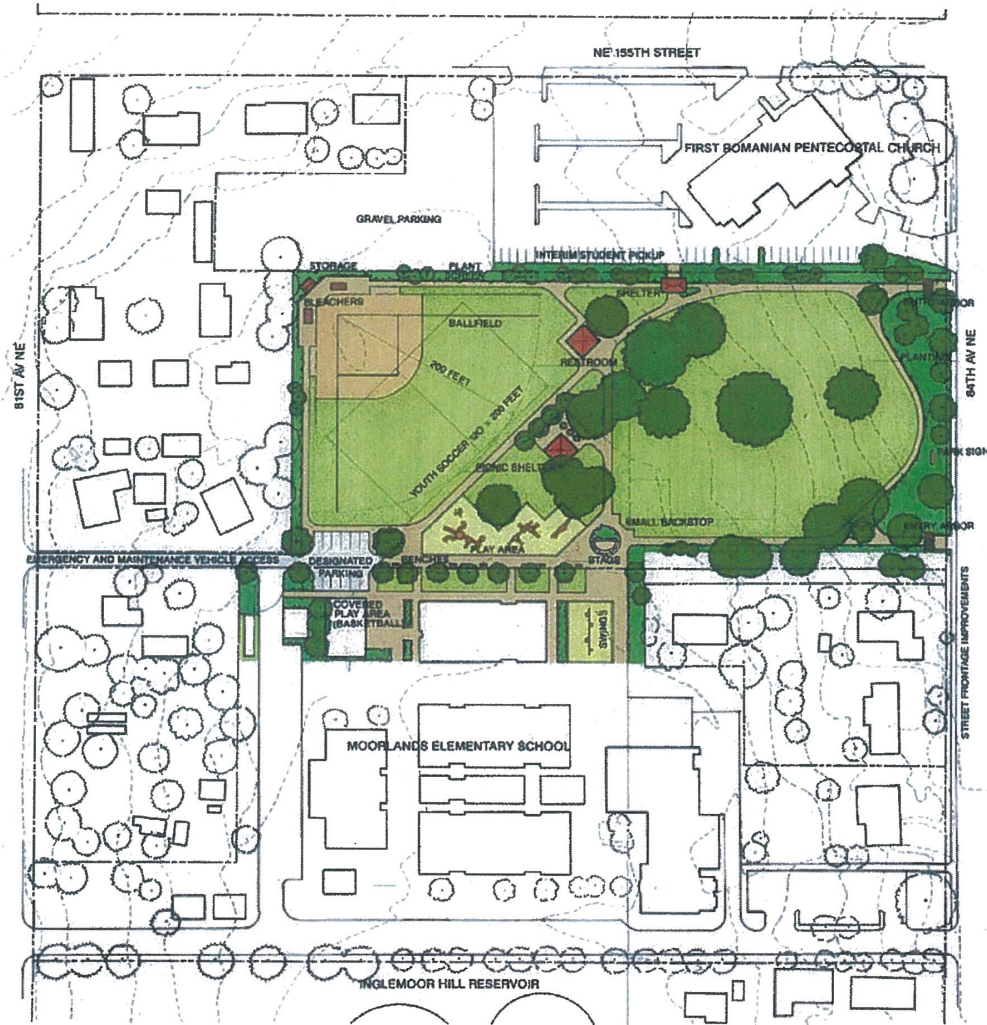
Project Number: 14-1290 D
Project Name: Moorlands Neighborhood Park Renovation
Sponsor: Kenmore City of

X	!	Milestone	Target Date	Comments/Description
X		Project Start	12/01/2015	
X	!	Cultural Resources Complete	12/15/2015	RCO has completed cultural resources consultation with Native American tribes and the Department of Archaeology and Historic Preservation. No further cultural resource investigation is required at this time. DAHP Log No: 121515-02-RCFB
X		Design Initiated	01/04/2016	
		Applied for Permits	06/01/2016	
		60% Plans to RCO	06/30/2016	
	!	Progress Report Submitted	07/31/2016	
	!	Annual Project Billing	07/31/2016	
	!	Progress Report Submitted	12/31/2016	
		SEPA/NEPA Completed	01/13/2017	
		All Bid Docs/Plans to RCO	02/28/2017	
		Bid Awarded/Contractor Hired	04/15/2017	
	!	Construction Started	05/31/2017	
	!	Annual Project Billing	07/31/2017	
	!	Progress Report Submitted	07/31/2017	
		50% Construction Complete	08/19/2017	
		RCO Interim Inspection	09/15/2017	
		90% Construction Complete	10/31/2017	
		Funding Acknowl Sign Posted	11/01/2017	
		RCO Final Inspection	11/01/2017	
		Construction Complete	11/18/2017	
		Final Billing to RCO	12/01/2017	
		Final Report in PRISM	12/01/2017	
	!	Progress Report Submitted	12/31/2017	
	!	Agreement End Date	01/31/2018	

X = Milestone Complete

! = Critical Milestone

Attachment 2



PROPOSED MASTER PLAN
MOORLANDS PARK • CITY OF KENMORE
 1/10/06

MADE
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 CRORD