

City of Kenmore



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
6:30 p.m., Monday, July 13, 2015
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. 6:30 p.m. - CALL SPECIAL MEETING TO ORDER

II. EXECUTIVE SESSION

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

III. ADJOURN SPECIAL MEETING

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

V. ROLL CALL

VI. FLAG SALUTE

VII. AGENDA APPROVAL

VIII. 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.

IX. CONSENT AGENDA

- A. Adopt Minutes for the June 15, 2015 and June 22, 2015 City Council Meetings
[DRAFT 06 15 2015 Minutes](#)
[DRAFT 06 22 2015 Minutes](#)
- B. Approve Check Nos. 32272 - 32384 in the Amount of \$2,597,287.17 and Electronically Transferred Payroll Funds Totaling \$80,538.18 for the Period Ending June 19, 2015
[Checks for Approval](#)

- C. Approve Contract No. 14-C1261 Amendment No. 1, Extending the Interlocal Agreement for Cooperative Odor Complaint Investigations with Puget Sound Clean Air Agency (PSCAA) for One Year

[Agenda Bill & Attachment](#)

[PSCAA Cooperative Odor Control Data](#)

- D. Approve Contract No. 15-C1414 with KPFF for 62nd Avenue Corridor Improvement Project Design

[Agenda Bill](#)

X. BUSINESS AGENDA

- A. **PUBLIC HEARING** and Discussion of New Regulations for Heavy Manufacturing Businesses and Amending and Updating Title 5, Business Licenses and Regulations - Bryan Hampson, Development Services Director

[Agenda Bill & Attachments](#)

- B. **PUBLIC HEARING** and Discussion of Ordinance No. 15-0398, Temporarily Eliminating the Road Impact Fee and Minimum Parking Requirements for Changes of Use of Existing Buildings in the North Subarea of the Regional Business Zone (RBZ) East of 68th Avenue NE - Bryan Hampson, Development Services Director

[Agenda Bill & Attachments](#)

- C. Kenmore Village Spencer Square Development Agreement Discussion - Bryan Hampson, Development Services Director

[11-3-2014 Agenda Bill and Purchase & Sale Agreement](#)

[Agenda Bill & Spencer Square Presentation Materials](#)

XI. STAFF REPORT

- A. Sound Transit 3 - Rob Karlinsey, City Manager

XII. COUNCILMEMBER REPORTS & COMMENTS

XIII. ADJOURNMENT

Upcoming Meetings:

Mon., July 20, 2015 7:00 p.m. City Council Regular Meeting
Tues., July 21, 2015 7:00 p.m. Planning Commission Regular Meeting
Mon., July 27, 2015 7:00 p.m. City Council Regular Meeting

**City of Kenmore, Washington
City Council Regular Meeting
Minutes
June 15, 2015**

CALL TO ORDER – The regular meeting of the Kenmore City Council was called to order by Mayor David Baker at 7:01 p.m.

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

Councilmembers excused: Councilmembers Brent Smith and Milton Curtis

Staff present: Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance & Administration Director; Kris Overleese, Public Works Director/City Engineer; Debbie Bent, Community Development Director; Leslie Harris, Community Relations Manager/Policy Analyst; Zack Richards, Capital Projects Manager; Brennan Jernigan, Graduate Intern; Rod Kaseguma, City Attorney; and Patty Safrin, City Clerk

FLAG SALUTE

Boy Scout David Popowicz led the flag salute.

AGENDA APPROVAL

It was Council consensus to approve the agenda as submitted.

PRESENTATIONS

Honoring Dr. Daniel Church, Outgoing President of Bastyr University – Dr. Church was honored for his accomplishments and contributions to the University and the City of Kenmore. During the ten years of his leadership, Bastyr experienced unprecedented achievement and growth. In honor of Dr. Church's leadership and community partnership, the City bestowed upon him the very first "Key to the City." Mayor Baker made a statement thanking Dr. Church and detailing some of his contributions to the City. Councilmembers Sperry, Herbig and Denuski and Deputy Mayor Van Ness also thanked him for all he has done for our community and offered him their best wishes for his retirement. Former Councilmember Glenn Rogers made a statement as well. Dr. Church stated that it is very flattering to have the affirmation, friendship and support of people in the City. He stated that the maturation of the City during the time that he has been here, since the City incorporated, not only matches but outshines what has happened at the University. He credited his colleagues at Bastyr for the progress that Bastyr has made.

Sound Transit 3 (ST3) Presentation - Debbie Bent, Director of Community Development; Matthew Bott, East King County Government & Community Affairs Office; and Chris Rule, Sound Transit Associate Planner, were present to discuss the Sound Transit 3. They were also available to answer any questions.

Matthew Bott gave a PowerPoint presentation detailing the history and purpose of Sound Transit and who they serve. He noted that there are three types of service: ST Express buses, standard commuter trains, and light rail. Chris Rule reviewed the ST3 timeline and how projects were selected and evaluated for inclusion. He stated that they are currently in the process of gathering feedback on the draft priority projects list, after which projects will be reevaluated by the Board to come up with a final list of projects which can be paid for by a potential ballot measure. He detailed the various ways in which the public can be involved, including public meetings and the website.

Mayor Baker stated the City's main priorities. He and other Councilmembers explained why these priorities are so important for Kenmore. Assistant City Manager Nancy Ousley noted that there is a meeting this Wednesday night at the City for those in the community who would like to participate in this process of providing feedback to Sound Transit.

CITIZEN COMMENTS

John Kropf, 350 N 190th Street, Shoreline, was present to talk about SkyTran transportation systems.

Doug Levy, 15619 62nd Place NE, Kenmore, was present to state that he hopes the Council will go forward boldly in 2016 because our local transportation system and local parks and recreation needs in the City are urgent. He stated that, in his opinion, the City needs to make infrastructure investments that are not dependent on grants.

Mayor Baker thanked the citizens for their comments.

CONSENT AGENDA

Deputy Mayor Van Ness moved to approve the consent agenda as submitted. Mayor Baker seconded the motion to Adopt the Minutes for the June 1, 2015 Joint City Council & Planning Commission Special Meeting and Approve Contract No. 15-C1420 with Road Construction NW for 2015 Sidewalk Gaps Project Construction. The motion passed unanimously.

BUSINESS AGENDA

Threshold Decision Approving Further Review of a Development Agreement with Bastyr University - Debbie Bent, Community Development Director was present to give a brief report. She was also available to answer any questions.

Director Bent stated that she is looking for a motion from Council to authorize staff to go forward with further review of a potential development agreement with Bastyr University. She stated that everything in the currently adopted Master Plan would be the same, just the term of the Master Plan would be extended by five years. Staff would also like to extend the ball field lease with Bastyr. Attorney Kaseguma stated that he is planning to present the development agreement by ordinance and the ball field lease extension by resolution in order to keep them separate.

Deputy Mayor Van Ness moved to Approve Further Review of a Development Agreement with Bastyr University. Mayor Baker seconded the motion. The motion passed 5-0.

March 2015 Financial Report for the City of Kenmore, Washington - Joanne Gregory, Finance and Administration Director, was present to give a brief review of the financial report. She was also available to answer any questions.

Director Gregory stated that the 2013-2014 budget period was closed with much better than anticipated results. Staff's plan is to transfer about \$800,000, or more if Council wishes to, to the Strategic Opportunities Fund. She stated that the first quarter of 2015 has been stable, with General Fund revenues as expected or even a little better, especially sales tax and development fees. General Fund expenses for March are low due to the fact that the invoice for Police services does not get paid until May or June and the fact that none of the \$1,000,000 in transfers from the General Fund have been recorded yet. She noted that nondepartmental expenditures were transferred to Finance and other departments with the switch to Priority-Based Budgeting.

Councilmember Denuski moved to Accept the March 2015 Financial Report for the City of Kenmore, Washington, as submitted. Mayor Baker seconded the motion. The motion passed 5-0.

Discussion of Parks & Transportation Funding Evaluation by Berk & Associates - Kris Overleese, Public Works Director/City Engineer, and team members, Allegra Calder, Principal with Berk & Associates; Natasha Fedo, Manager with Berk & Associates and Project Lead; Joanne Gregory, Finance & Administration Director; Debbie Bent, Community Development Director; and Leslie Harris, Community Relations Manager/Policy Analyst, were present to give a brief report on the project. They were also available to answer any questions.

Director Overleese provided a PowerPoint presentation. She detailed the project objectives, which are to engage the community in conversation about wanted improvements (community "wish list"); narrow the list down with the public's help; and determine funding options and community appetite for financing mechanisms outside the current budget. Natasha Fedo stated that they are looking for direction from the Council in terms of potential project elements and possible ballot dates. Overleese noted that after hearing from Council tonight, Berk will put the team strategy into writing. Then staff would bring that back to Council for approval. After approval, Berk would be under contract for the project. Fedo reviewed the steps and scheduling that would be involved in preparing for a ballot measure.

It was Council consensus that if there is a ballot measure, staff should aim for August 2016, with November 2016 as a backup date.

STAFF REPORT

Assistant City Manager Ousley noted that the City will have a Community Meeting on Wednesday, June 17th at 7:00 p.m. She stated that we have just concluded a week-plus of food trucks, and they did very well. A new brewery is now renting the downstairs portion of the building where the Business Incubator is located.

Rod Kaseguma stated that five Councilmembers must vote in favor an ordinance approving a development agreement in order for it to pass.

CITY COUNCILMEMBER REPORTS & COMMENTS

Councilmember Sperry stated that she is thrilled to see that there is a good solution for the Arrowhead crosswalk.

Councilmember Denuski inquired about next steps for food trucks.

Deputy Mayor Van Ness reported on a trip to Salt Lake City last week with the Mayor at a very productive meeting of the National League of Cities. He is on the transportation committee, and they had a lot of time to discuss policies this year, unlike last year. He stated that the City ought to look into being members of the International Town and Gown Association with Bastyr University.

Mayor Baker noted that the light rail in Salt Lake City was very good. He stated that he was asked to do something for KaBOOM!, so he shot some video. He showed this "Playability in Kenmore" video. He stated that he is proud that the City has been recognized as a Playful City USA for the 6th year in a row. The video is going to be released nationwide, and KaBOOM! is going to feature it this Wednesday. He noted that he has been following Councilmember Smith's trip blog and some ideas he has come across for adding fun to Kenmore. He stated that he spoke to the owner of the Maximus/Minimus food truck, and they would like to come back every Monday during the summer unless they have an event scheduled.

ADJOURNMENT

Mayor Baker adjourned the regular meeting at 9:21 p.m.

David Baker, Mayor

ATTEST:

Patty Safrin, City Clerk

**City of Kenmore, Washington
City Council Regular Meeting
Minutes
June 22, 2015**

CALL TO ORDER – The regular meeting of the Kenmore City Council was called to order by Mayor David Baker at 7:01 p.m.

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

Councilmembers excused: Councilmember Brent Smith

Staff present: Rob Karlinsey, City Manager; Nancy Ousley, Assistant City Manager; Kris Overleese, Engineering & Environmental Services Director; Debbie Bent, Community Development Director; Lauri Anderson, Senior Planner; 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.

CITIZEN COMMENTS

There was no one wishing to speak during the comment period.

CONSENT AGENDA

Mayor Baker requested to pull Consent Agenda Item E., “Appoint Valeria Cid Garza (Valerie) as Youth Member of the Kenmore Library Advisory Board,” for separate consideration.

Councilmember Sperry moved to approve Items A through D of the consent agenda as submitted. Mayor Baker seconded the motion to Adopt the Minutes for the June 8, 2015 City Council Regular Meeting; Approve Check Nos. 32189 - 32272 in the Amount of \$271,301.24 and Electronically Transferred Payroll Funds Totaling \$80,009.83 and Payroll Check Nos. 7534 and 7539 Totaling \$1,901.14 for the Period Ending June 5, 2015; Approve Amendment No. 1 to Contract No. 12-C1083 with Kenmore Commercial, LLC for Kenmore Business Incubator Lease; and Authorize City Manager to Execute Contract No. 15-C1424 with Total Landscape Corporation for Surface Water Facilities Maintenance
The motion passed unanimously.

Mayor Baker noted that Valerie Garza was present at the meeting and thanked her for volunteering as youth member of the Kenmore Library Advisory Board (KLAB). Councilmember Sperry stated that the City is thrilled to have her on the KLAB.

Councilmember Denuski moved to approve Item E of the consent agenda as submitted. Mayor Baker seconded the motion to Appoint Valeria Cid Garza (Valerie) as Youth Member of the Kenmore Library Advisory Board. The motion passed unanimously.

BUSINESS AGENDA

Adopt Ordinance No. 15-0399, 2015 Comprehensive Plan Update - Debbie Bent, Community Development Director, and Lauri Anderson, Senior Planner, were present to answer any questions.

Councilmember Herbig moved to Adopt Ordinance No. 15-0399, 2015 Comprehensive Plan Update. Mayor Baker seconded the motion. The motion passed 6-0.

STAFF REPORT

City Manager Karlinsey announced that a public hearing will be held on Monday, June 29, 2015 at 5:30 p.m. on the Bastyr University Master Plan Development Agreement. He noted that he and Councilmember Herbig will attend a Cascade Vision Zero workshop tomorrow in Bellevue. He reminded everyone about the citizen-led Why I Love Kenmore events this coming Saturday. Main Street, LLC is a big sponsor of the block party event, and they are also sponsoring a hydroplane.

CITY COUNCILMEMBER REPORTS & COMMENTS

Councilmember Sperry suggested a video booth at the event, recording people saying why they love Kenmore.

Councilmember Curtis stated that he received a letter today from citizen Dennis Kroger stating his concerns about some of the uses that have occurred at Squires Landing and offering some recommendations. Councilmember Curtis suggested that the City consider some the clutter that is developing there and the idea that maybe it is being used so exclusively by one group that it is not feeling public to others.

Councilmember Herbig noted that he will also attend a Sound Transit meeting in Redmond this week.

Mayor Baker stated that the Kenmore Cascade Canoe and Kayak team (KCKK) did really well in Bellingham on last Saturday and got lots of ribbons and medals. He reported on a Seattle Sound Transit 3 meeting. AWC meetings start tomorrow in Wenatchee. He and Councilmember Denuski will be doing a presentation on some of the ideas the City has recently been working with, such as “where’s the fun.” He will also be the moderator of a panel that Assistant City Manager Ousley is doing.

ADJOURNMENT

Mayor Baker adjourned the regular meeting at 7:16 p.m.

David Baker, Mayor

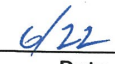
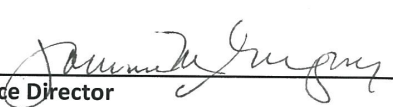
ATTEST:

Patty Safrin, City Clerk

DRAFT

City of Kenmore 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 and that the following claims, paid by checks 32273-32384 which total \$2,597,287.17, and electronically transferred payroll funds totalling \$80,538.18 are just, due and unpaid obligations against the City of Kenmore/KingCounty/Washington, and that I am authorized to authenticate and certify to said claims.

 _____ City Manager	 _____ Date
 _____ Finance Director	6/19/15 _____ Date

Check #	Vendor Name	Description	Check Amount
32273	EAGLE EYE CONSULTING ENGINEERS	Residential Plan Review Traini	125.00
32274	CITY OF KENMORE	PERS Retro Reimbursement	26.87
32275	NATIONWIDE FINANCIAL 401a	Social Security Replacement Plan	12,502.85
32276	NATIONWIDE RETIREMENT SOLUTIONS 457	Deferred Comp Payroll Deduction	285.00
32277	ICMA RETIREMENT TRUST 457 - 304745	Deferred Comp Payroll Deduction	2,835.43
32278	DRS 457	Deferred Comp Payroll Deduction	1,120.00
32279	CITY OF KENMORE FS	Flexible Spending Medical Plans	334.21
32280	BANK OF AMERICA 941	Payroll Taxes	16,734.27
32281	DEPARTMENT OF RETIREMENT SYSTEMS	WA State Retirement	15,213.03
32282	STATE OF FLORIDA DISBURSEMENT UNIT	Payroll Deduction	275.00
32283	UNITED STATES POSTMASTER	Newsletter Postage	1,601.74
32284	BAKER, DAVID	6/8-6/16 Mileage Reimbursement	88.55
32285	CASCADE PEST CONTROL	Rhododendron Park Pest Control	142.35
32286	CENTER FOR HUMAN SERVICES	Qtr 1 2015 Human Services Programs	5,000.00
32287	CITY OF BELLEVUE	3rd Qtr 2015 ARCH Contribution	6,678.25
32288	CITY OF LAKE FOREST PARK	May Public Works Crew Billing	72,250.14
32289	COASTWIDE LABORATORIES	City Hall Maintenance Supplies	479.75
32290	REPUBLIC SERVICES	May Rhododendron Park & City Hall Garbage	894.58
32291	FERGUSON ENTERPRISES INC #1539	May Service Charge	2.77
32292	FRUHLING SAND & TOPSOIL	Rhododendron Park Brush Dumping	80.00
32293	HOME DEPOT CREDIT SERVICES	Public Works Supplies/Equipment	181.55
32294	HOPELINK	Qtr 1 2015 Human Services Programs	7,750.00
32295	INSLEE, BEST, DOEZIE & RYDER, P.S.	April Legal Services	18,257.07
32296	KING COUNTY FINANCE	May Road Svcs - 68th Overlay/Signs/Striping	10,865.92
32297	KING COUNTY FINANCE	May Adult/Juv. Detention Comm. Work Prog.	3,520.00
32298	KING COUNTY FINANCE	May Solid Waste Disposal Fees	85.71
32299	SOUND PUBLISHING, INC.	Advertising/Publications	1,353.60
32300	KING COUNTY OFFICE OF FINANCE	Apr Public Defense Indigency Screening	792.58
32301	KING COUNTY RADIO COMM SERVICES	4/29-7/31 Emergency Telecommunications	283.61

32302	KING COUNTY SHERIFF	Police Services January-May 2015	1,202,471.40
32303	KING COUNTY TREASURY	Taxes for 3 Kenmore Village Parcels	951.96
32304	LIGHTHOUSE CONSULTING INC	May IT Services/Web Hosting/Protection	4,053.14
32305	MEEHAN, NANCY	Reimbursement for Mtg. Expenses/Supplies	51.12
32306	MR. T'S TROPHIES	Logo Wear Shirts/Jackets/Hats	1,190.32
32307	NORTHSHORE FIRE DEPT	May Fire Marshal Plan Review	260.00
32308	NORTHSHORE SCHOOL DISTRICT	1st Qtr Human Services Program	2,500.00
32309	NORTHSHORE SENIOR CENTER	1st Qtr 2015 Kenmore Sr. Center Human Svcs	5,500.00
32310	NORTHSHORE SENIOR CENTER	1st Qtr Transportation Human Svcs Program	1,650.00
32311	NORTHSHORE UTILITY DIST	May Vehicle Fuel/Maint. & Wtr/Swr Charges	4,310.75
32312	NORTHSHORE YOUTH & FAMILY SERVICES	1st Qtr 2015 Human Svcs Program	4,000.00
32313	HONEY BUCKET	5/23-6/19 Rental @ Squire's Landing	218.35
32314	OFFICE DEPOT	Office Supplies	353.37
32315	OFFICE MAX	City Hall Work Station Accessories	1,158.16
32316	OFFICE TEAM	Reception Desk Temporary Services	649.28
32317	OLYMPIC ENVIRONMENTAL RESOURCES INC	Spring Recycling Event	17,254.92
32318	PACIFIC TOPSOILS	4/27-5/22 Dump Fees & Materials	299.99
32319	PEOPLES STORAGE	#C304 July Storage Unit Rent	190.00
32320	PUGET SOUND ENERGY	Street Light Installation/Gas/Electricity Chgs	14,703.88
32321	SEATTLE TIMES	5/29 & 6/4 Advertising	225.60
32322	SIGN UP, SIGN CO, INC	"No Parking" Sign & Summer Concert Banner	492.75
32323	STEWART MACNICHOLS HARMELL, INC.	May Public Defender Services	5,000.00
32324	TOTAL LANDSCAPE CORP	May NS Summit & Squire's Landing Maint.	1,730.10
32325	WA STATE DEPT OF TRANSPORTATION	March Traffic Signal Maintenance	411.29
32326	COLUMBIA RIDGE LANDFILL	May Street Sweeper Dump Fees	1,028.40
32327	WONDERLAND DEVELOPMENT	Qtr 1 2015 Human Services Programs	1,250.00
32328	ICMA RETIREMENT TRUST 457 - 304745	Conference Registration - Nancy Ousley	680.00
32329	ARTS OF KENMORE	City Hall Gallery Recycling Exhibit	950.00
32330	MIGHTY BISON BOOKING	1st 1/2 of Summer Concert Booking Fee	1,750.00
32331	KONICA MINOLTA BUSINESS SOLUTIONS	May Incubator Copier Charges	209.32
32332	KONICA MINOLTA BUSINESS SOLUTIONS	May SR522 Project "KBA" Copier Charges	358.81
32333	TELESYSTEMS WEST	New Direct In Dial Numbers & Handset	234.89
32334	HDR	SR522 West A Const. 3/29-5/2/15	89,422.07
32335	SANDRA OWEN DESIGN	Summer Concerts Graphic Design	585.00
32336	BANNER BANK NO	Training Registration/Parking/Bus. Mtgs.	308.84
32337	QUALITY BUSINESS SYSTEMS INC.	Apr & May 1st & 2nd Floor Xerox Copier Chgs	1,593.10
32338	BANNER BANK JG	Supplies/Lodging/Transportation	1,154.64
32339	GRAINGER	Fencing Material/Native Plant Projects/Supp.	1,515.91
32340	TOPIA TECHNOLOGY/ BIS	Website Hosting	200.00
32341	GREGORY, JOANNE	Travel Reimbursement	891.03
32342	A+ CONFERENCING	5/27-6/2 Conference Calls	69.54
32343	SHRED-IT	5/29 Shredding Service	59.08
32344	KENMORE ELEMENTARY PTA	Qtr 1 2015 Human Services Programs	1,500.00
32345	ZUMAR	Squire's Landing Park Signs	286.64
32346	COMCAST	6/14-7/13 City Hall Cable/Internet	139.08
32347	GORDON THOMAS HONEYWELL	May Government Relations Consulting	3,709.78
32348	WALL, JOHN	Locksmith Services @ City Hall	317.55
32349	TOWN CENTER HARDWARE	May Public Works Tools/Equipment	141.84
32350	INTEGRA TELECOM	6/8-7/7/15 City Hall Phone Service	879.27

32351	PHSI PURE WATER FINANCE	Incubator Filtered Water Monthly Charge	50.31
32352	FRONTIER	5/28-6/27 City Hall & Elevator Phone Service	1,038.22
32353	PURE WATER TECHNOLOGY OF PUGET SOUND	City Hall Filtered Water Maintenance	224.26
32354	SCHINDLER ELEVATOR CORPORATION	Elevator Service	1,151.52
32355	PERTEET INC.	3/30-5/3 On-Call Consulting Services	23,671.92
32356	AAA FLAG & BANNER MFG. CO., INC.	Street Banners	5,620.28
32357	VERIZON WIRELESS	5/27-6/26 Cell Phones/IPads	1,021.62
32358	GREATER BOTHELL CHAMBER OF COMMERCE	Business Reg. Open House Display Tables	100.00
32359	JOYCE ZIKER PARKINSON	May Environ. Legal Svcs Lk WA Sediment/K.V.	1,387.50
32360	HAWTHORNE LANE LLC	ROW Deposit Release PRJ2007-072	7,500.00
32361	VOID	Void	-
32362	BANNER BANK PS	WMCA Dues & Ethernet Cables	121.03
32363	PETERSON, JANET	Ergonomics Consulting	300.00
32364	KENMORE COMMERCIAL LLC	July Incubator Building Lease Payment	3,281.00
32365	ALPHAGRAPHICS US718	Business Cards	213.61
32366	CITYWORKS/ AZTECA SYSTEMS INC.	Cityworks Additional Licenses	9,130.11
32367	UTILITIES UNDERGROUND LOCATION CTR	May Locating Services	194.79
32368	OSBORN CONSULTING INC.	April On-Call Consulting Services	26,473.86
32369	G & H PRINTING	Fireworks Show Posters	244.75
32370	MOBILE MINI, INC.	5/25-6/21 Log Boom Container #1 & 2	226.16
32371	NORTHWEST LANDSCAPE SERVICES	June SR522 ROW Landscape Svcs & Irr. Eval.	1,621.39
32372	SAUVE, GAYLEN	MC Services for 4th of July Event	300.00
32373	MACDONALD MILLER FACILITY SOLUTIONS	Senior Center Toilet Repairs	744.83
32374	SCORE	May Inmate Housing	65,728.00
32375	MUMMA, RYAN	Mileage Reimbursement	60.95
32376	NORTHWEST TROPHY	Dr. Church Retirement Award "Key"	91.98
32377	STARDOM SERVICES, INC.	May Incubator Bldg. Janitorial Services	510.00
32378	HERMANSON COMPANY, LLP	City Hall HVAC System Maintenance	456.63
32379	CONYERS, JODY	Mileage Reimbursement	54.63
32380	FISHER, ALENE	#WhyILove Kenmore Party Banner	290.53
32381	THOMAS, MICHAEL	Boot Reimbursement	133.36
32382	WAYNE'S ROOFING INC.	Post Office Roof	72,027.98
32383	CHAVEZ, FRANCISCO	July 9th Summer Concert Performer	1,500.00
32384	MARSHBANK CONSTRUCTION	Pay Est. #2 SR 522 W. A 14-C1328	813,194.95
6/12/2015	PAYROLL	Direct Deposit	80,538.18
			<u>\$2,677,825.35</u>

2015	PRIOR VENDOR ACTIVITY	TOTAL	FOR 2015
	A & A AIRPORT LIMOUSINE SERVICE		798.00
	A+ CONFERENCING		41.30
	A-1 LANDSCAPING & CONSTRUCTION, INC.		7,177.73
	AA ASPHALTING, INC		16,583.78
	AA PARTY RENTALS		370.07
	AAA PRINTING		723.80
	AABCO BARRICADE COMPANY INC.		849.78
	ACTION ENTERTAINMENT		395.00
	ACTIVE SHOOTER TRAINING LLC		184.52
	ADVANCE TESTING & SERVICE INC		702.00
	AFLAC		2,192.55
	ALCALDE & FAY		25,640.87
	ALEXANDER, JEFF		250.00
	ALL CITY FENCE CO.		4,089.83
	ALLISON & PARTNERS		9,600.00
	ALPHA SUPPORTED LIVING SERVICES		250.00
	ALPHAGRAPHICS US718		1,090.71
	AMERICAN GENERAL		2,218.60
	AMERICAN PLANNING ASSOCIATION		2,111.00
	AMERICAN PUBLIC WORKS ASSOCIATION		960.00
	ANCHOR QEA, LLC		4,118.00
	APPLIED TECHNOLOGIES NW INC.		8,700.25
	ARC - PACIFIC NORTHWEST		675.46
	ARTS OF KENMORE		792.75
	ASSOCIATION OF WA CITIES		16,925.94
	AURORA RENTS		836.13
	AV CAPTURE ALL		2,757.43
	AWC EMPLOYEE BENEFITS		204,732.45
	BAKER, DAVID		1,631.39
	BANK OF AMERICA 941		149,164.72
	BANNER BANK BAKER		6,031.86
	BANNER BANK BH		2,231.27
	BANNER BANK CS		1,102.74
	BANNER BANK DB		1,397.50
	BANNER BANK JG		1,870.76
	BANNER BANK JGORDON		9,789.67
	BANNER BANK KENMORE		13,053.51
	BANNER BANK LD		5,112.82
	BANNER BANK NO		1,706.39
	BANNER BANK PS		23.08
	BANNER BANK VAN NESS		4,076.09
	BASTYR UNIVERSITY		50,200.00
	BECKER, THEODORE J		1,675.00
	BLACKBAUD		6,283.89
	BORROMEO, ALEXANDER		75.00
	BRIEN, GAYLYNN		300.00
	BUILDERS EXCHANGE OF WASHINGTON INC		183.85

CALPORTLAND COMPANY	666.22
CAPITAL ONE COMMERCIAL/ COSTCO	577.23
CASCADE PEST CONTROL	711.75
CEMEX	2,241.67
CENTER FOR PRIORITY BASED BUDGETING	12,500.00
CITY OF BELLEVUE	58,773.04
CITY OF KENMORE	133.59
CITY OF KENMORE FS	3,342.10
CITY OF LAKE FOREST PARK	295,812.61
CITY OF SHORELINE	1,452.30
CITYWORKS/ AZTECA SYSTEMS INC.	10,944.53
CLK CONSTRUCTION LLC	9,811.11
COASTAL WEAR PRODUCTS INC	1,356.71
COASTWIDE LABORATORIES	3,271.37
CODE PUBLISHING COMPANY	6,226.04
COLUMBIA RIDGE LANDFILL	2,862.49
COMCAST	1,782.42
CONSOLIDATED PRESS	3,036.14
CROWN PRODUCTS LLC	1,021.30
CURTIS, DR. MILTON	1,326.64
DAILY JOURNAL OF COMMERCE	2,083.80
DENUSKI, STACEY	150.00
DEPARTMENT OF ECOLOGY	6,370.50
DEPARTMENT OF LABOR AND INDUSTRIES	11,370.53
DEPARTMENT OF RETIREMENT SYSTEMS	134,562.29
DEVRIES, DENIS	174.30
DIGITAL REPROGRAPHICS SERVICES INC.	95.28
DLT SOLUTIONS	1,600.67
DRS 457	4,720.00
DURRANT, JEFF	152.50
ECONOMIC DEV COUNCIL OF SEATTLE/KC	5,000.00
EE-NA ENTERPRISES LLC	13,593.15
EMERGENCY SERVICE COORDINATING AGCY	50,559.00
EMPLOYMENT SECURITY DEPT	3,643.50
ENVIRONMENTAL SYSTEMS RESEARCH INST.	7,008.00
EVERGREEN PRINT SOLUTIONS	298.76
EVERGREEN SAFETY COUNCIL	299.00
EVER-MARK, LLC	346.73
FASTSIGNS	210.61
FERGUSON ENTERPRISES INC #1539	6,076.06
FIRE PROTECTION, INC	2,761.56
FRONTIER	5,101.74
FRUHLING SAND & TOPSOIL	1,543.76
GA JORGENSEN CO. INC.	253.81
GALLATIN PUBLIC AFFAIRS	1,750.00
GATES, JANICE	40.74
GENERAL DYNAMICS	890.00
GEOENGINEERS INC	2,203.50
GORDON THOMAS HONEYWELL	15,021.80

GOVDELIVERY, INC.	10,500.00
GOVERNMENT FINANCE OFFICERS ASSOC	190.00
GRABER MANUFACTURING, INC.	2,525.00
GRAINGER	414.65
GRAKLANOFF, ANNA	75.00
GREATER BOTHELL CHAMBER OF COMMERCE	1,790.00
GREGORY, JOANNE	667.81
HANSEN, COREY	17,125.00
HARRIS & SMITH PUBLIC AFFAIRS	1,581.25
HARRIS COMPUTER SYSTEMS	7,390.06
HAVESON, CRAIG	7,500.00
HDR	100,542.21
HELMETS R US INC	296.75
HERMANSON COMPANY, LLP	2,451.37
HESTON VISUAL ARTS	383.25
HEWITT	92,670.27
HOME DEPOT CREDIT SERVICES	786.11
HONEY BUCKET	1,097.55
HOPKINS, CRAIG	344.96
ICMA RETIREMENT TRUST 457 - 304745	28,354.30
INDEPENDENT STATIONERS	1,851.51
INGLEMOOR HIGH SCHOOL MUSIC BOOSTERS	1,600.00
INNOVAC	15,653.41
INSLEE, BEST, DOEZIE & RYDER, P.S.	52,673.76
INTEGRA TELECOM	4,037.52
INTERNET DOMAIN NAME SERVICES INC.	180.00
iWORQ SYSTEMS	2,800.00
JACOBS ENGINEERING GROUP	3,003.39
JAYMARC - AV	897.90
JET CITY PRINTING	1,536.01
JOHNSON, WES	530.00
JOYCE ZIKER PARKINSON	6,090.00
KARLINSEY, ROB	374.54
KENMORE COMMERCIAL LLC	17,415.00
KENMORE JR HIGH SCHOOL	75.00
KING CO. UTILITY COORDINATION COUNCIL	75.00
KING COUNTY ANIMAL SVCS	1,420.00
KING COUNTY FINANCE	140,968.98
KING COUNTY FINANCE W.L.R.D.	2,241.83
KING COUNTY MUNICIPAL CLERKS ASSOC	25.00
KING COUNTY OFFICE OF FINANCE	2,439.84
KING COUNTY PARKS	72.41
KING COUNTY RADIO COMM SERVICES	283.61
KING COUNTY RECORDER'S OFFICE	107.00
KING COUNTY SHERIFF	17,435.53
KING COUNTY SUPERIOR COURT CLERK	141,200.00
KING COUNTY TREASURY	12,555.15
KING CTY EASTSIDE TRANSP PARTNERSH	200.00
KONICA MINOLTA BUSINESS SOLUTIONS	1,836.36

KUKER-RANKEN INC	29.51
KUSTOM SIGNALS, INC.	18.00
LAW OFFICE OF JOHN RUNGERUDE, PS	900.00
LIGHTHOUSE CONSULTING INC	16,855.01
LINCOLN NATIONAL LIFE INSURANCE	4,128.19
MAIL FINANCE	1,406.00
MANTLE INDUSTRIES INC	3,277.34
MARSHBANK CONSTRUCTION	164,490.65
MEEHAN, NANCY	84.25
MILLER STEPHENS, MARY	5,000.00
MILLS, VIC	250.00
MINZGHOR, NICHOLAS	341.94
MOBILE ELECTRICAL DISTRIBUTORS INC	13.47
MOBILE MINI, INC.	1,001.42
MR. T'S TROPHIES	1,857.68
NATIONAL BUSINESS INCUBATION ASSOC.	525.00
NATIONAL LIFE OF VERMONT	727.57
NATIONAL NEIGHBORHOOD WATCH INSTITUTE	345.00
NATIONWIDE FINANCIAL 401a	112,824.78
NATIONWIDE RETIREMENT SOLUTIONS 457	2,850.00
NEOPOST NORTHWEST	274.82
NORTHSHORE FIRE DEPT	3,266.25
NORTHSHORE PARK & REC SERVICE AREA	1,360.00
NORTHSHORE ROTARY CLUB	714.00
NORTHSHORE UTILITY DIST	19,956.78
NORTHWEST ATHLETICS	350.00
NORTHWEST LANDSCAPE SERVICES	5,999.05
NORTHWEST MARINE TRADE ASSOCIATION	425.00
NORTHWEST TROPHY	97.46
NW ENVIRONMENTAL TRAINING CENTER	1,325.00
OFFICE DEPOT	3,833.05
OFFICE MAX	2,691.13
OFFICE TEAM	8,393.42
OfficeMax Workplace Interiors	6,489.89
OLYMPIC ENVIRONMENTAL RESOURCES INC	3,659.00
OSBORN CONSULTING INC.	83,129.54
OUSLEY, NANCY	501.05
PACIFIC TOPSOILS	2,246.06
PARADISE AMUSEMENTS	100.00
PART WORKS INC	461.93
PAWS	1,521.00
PENDLETON, MICHAEL	3,523.84
PEOPLES STORAGE	950.00
PERSONAL BEST/ TOPHEALTH	197.77
PERTEET INC.	58,094.74
PETERSON, JANET	300.00
PETTY CASH CUSTODIAN	446.14
PHSI PURE WATER FINANCE	825.02
PIEDMONT DIRECTIONAL	953.52

PIPERS CREEK NURSERY	188.34
PLANNING ASSOCIATION OF WASHINGTON	80.00
PUBLIC HEALTH DEPT. OF KING COUNTY	100.00
PUGET SOUND BUSINESS JOURNAL	97.00
PUGET SOUND CLEAN AIR AGENCY	14,740.00
PUGET SOUND ENERGY	77,679.07
PUGET SOUND REGIONAL COUNCIL	7,416.00
PURE WATER TECHNOLOGY OF PUGET SOUND	112.13
QUALITY BUSINESS SYSTEMS	2,660.31
RANDALL, BRIAN	124.06
REDMOND, MICHAEL	61.25
REPUBLIC SERVICES	3,461.20
RICHMOND AMERICAN HOMES OF WA	60.00
RM HOMES LLC	412.01
RODGERS, DEUTSCH & TURNER PLLC	69,850.00
ROGERS, GLENN	20.91
RONGERUDE, JOHN	900.00
SAFRIN, PATTY	42.55
SAMYN, DR. JEFFREY	250.00
SANDRA OWEN DESIGN	1,020.00
SARAH ROBERTS	42,032.16
SAWYER, RICHARD	1,379.83
SCHOCK, BRETT	227.04
SCORE	187,737.40
SEATTLE TIMES	5,944.10
SEES TREES AND EXCAVATION INC	1,029.30
SESAC	360.00
SEXTANT MARKETING GROUP	6,940.61
SHELTON, CINDY	42.55
SHERWIN-WILLIAMS CO. #8099	154.79
SHRED-IT	264.84
SIGN UP, SIGN CO, INC	164.25
SILVER KITE COMMUNITY ARTS CONSULT.	300.00
SNOHOMISH COUNTY	5,977.00
SNOHOMISH COUNTY HEARING EXAMINER	500.00
SOUND CITIES ASSOC	12,798.49
SOUND PUBLISHING, INC.	5,544.83
SPERRY, LAURIE	91.95
STARDOM SERVICES, INC.	2,040.00
STATE OF FLORIDA DISBURSEMENT UNIT	2,750.00
STEWART MACNICHOLS HARMELL, INC.	28,055.00
STOPTECH, LTD.	4,544.25
STUDIO 3 SIGNS	2,299.50
TELESYSTEMS WEST	1,984.96
TERREBONNE LIMITED	337.34
THE KIPLINGER LETTER	99.00
TIKOR CONSULTING	52.79
TOPIA TECHNOLOGY/ BIS	2,890.00
TOTAL LANDSCAPE CORP	29,382.10

TOWN CENTER HARDWARE	883.76
TWEDT, CHARLES	1,500.00
TWO BROTHERS' TREES	600.00
ULINE	1,544.27
UNITED RENTALS NW, INC	923.37
UNITED STATES POSTMASTER	1,571.30
UNITED WAY OF KING COUNTY	2,822.82
UPS STORE	232.99
URBAN LAND INSTITUTE	215.00
US POSTAL SERVICE (HASLER)	2,118.03
U-SAVE OIL CO	2,150.00
UTILITIES UNDERGROUND LOCATION CTR	762.39
VAN NESS, ALLAN	1,416.68
VAUGHAN, KENT	116.00
VERIZON WIRELESS	4,978.91
WA ASSOC OF BUILDING OFFICIALS	950.00
WA ASSOC OF PUBLIC RECORDS OFFICERS	140.00
WA CITIES INSURANCE AUTHORITY	212,891.00
WA FINANCE OFFICERS ASSOCIATION	150.00
WA GUARANTEED EDUCATION TUITION	500.00
WA STATE CONSOLIDATED TECH SVCS	700.00
WA STATE DEPT OF CORRECTIONS	230.50
WA STATE DEPT OF ENTERPRISE SVCS	175.00
WA STATE DEPT OF LABOR & INDUSTRIES	141.60
WA STATE DEPT OF TRANSPORTATION	5,975.06
WA STATE DEPT OF TRANSPORTATION	1,198.09
WAGE WORKS	250.00
WALL, JOHN	136.88
WASHINGTON CITY/COUNTY MGMT ASSOC	365.00
WASHINGTON STATE PATROL	1,063.97
WELLS FARGO FINANCIAL	6,247.50
WELWEST CONSTRUCTION INC.	4,868.03
WETLANDS & WOODLANDS INC	183.96
ZONAR SYSTEMS	525.33
ZUMAR	1,526.73
	<u><u>\$3,287,936.98</u></u>



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

Subject/Topic: Authorize City Manager to Execute Contract 14-C1261 (Amendment #1), Extending the Interlocal Agreement for One Year Between the City of Kenmore and Puget Sound Clean Air Agency for Cooperative Odor Complaint Investigations Proposed Council Action/Motion: Motion to Authorize City Manager to Execute Contract 14-C1261 (Amendment #1), an Interlocal Agreement Between the City of Kenmore and Puget Sound Clean Air Agency for Cooperative Odor Complaint Investigations	For Council Meeting Agenda of: <u>July 13, 2015</u> Department: <u>Development Services</u> Prepared by: <u>Bryan Hampson, Development Services Director</u> Initial & Date Approved by Department Head: <u>BH 7/1/15</u> Approved by City Attorney: <u>✓ ORIGINAL CONTRACT</u> Approved by Finance Director: <u>7/1/15</u> Approved by City Manager: <u>[Signature]</u> Exhibit: Amended Interlocal Agreement Between the City of Kenmore and Puget Sound Clean Air Agency for Cooperative Odor Complaint Investigations, Contract No. 14-C1261 (Amendment #1).
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Expenditure Required \$NA	Amount Budgeted \$NA	Appropriation Required \$NA
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INFORMATION/BACKGROUND:

On October 13, 2014, the Council authorized the City Manager to Execute Contract 14-C1261, an Interlocal Agreement Between the City of Kenmore and Puget Sound Clean Air Agency for Cooperative Odor Complaint Investigations. The original contract was initially for a period of six (6) months from the effective date. The original contract lapsed on April 16, 2015.

Staff recommends extending the agreement another year, to July of 2016. The amended contract is the same as the original contract with the exception of the duration, twelve (12) months from the effective date.

Same as previously, during this period Puget Sound Clean Air Agency may still respond to and investigate air quality complaints within Kenmore.

Kenmore will be authorized, on a non-exclusive basis, as Kenmore staff time and resources permit at the sole discretion on the Kenmore City Manager or his/her designee, and on behalf of the Puget Sound Clean Air Agency, to conduct odor complaint investigation activities detailed in the Agreement.

As the City of Kenmore employee completes the investigation, the documentation is submitted to the Puget Sound Clean Air Agency. Puget Sound Clean Air Agency then determines whether or not to initiate any enforcement action. The City of Kenmore will not be responsible for enforcement action related to odor or air quality complaints. The cost of any enforcement action taken as a result of the investigation shall be borne exclusively by the Puget Sound Clean Air Agency.

FISCAL CONSIDERATION:

Resources needed to respond and conduct odor complaint investigations.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

To continue to improve the quality of life throughout the City.

2016-002

**INTERLOCAL AGREEMENT FOR COOPERATIVE ODOR
COMPLAINT INVESTIGATIONS**

City of Kenmore Contract No. 14-C1261 (Amendment #1)

THIS INTERLOCAL AGREEMENT FOR COOPERATIVE ODOR COMPLAINT INVESTIGATIONS is made and entered into on this ____ day of July, 2015, by and between the City of Kenmore [hereinafter "Kenmore"], a municipal corporation, and the Puget Sound Clean Air Agency [hereinafter "PSCAA"], a multicounty public agency.

RECITALS:

A. The PSCAA is a multicounty air pollution control agency organized and activated in accordance with Chapter 70.94 RCW. Kenmore is located within the boundaries and the jurisdiction of the PSCAA.

B. The purpose and the public policy of the PSCAA is to secure and maintain such levels of air quality as will protect human health and safety, to prevent injury to plant and animal life and property, and to foster the comfort and convenience of the area's inhabitants.

C. Pursuant to the authority of RCW 70.94.141, the PSCAA has previously adopted Regulation 1 to control the emission of air contaminants from all sources within the agency's jurisdiction, to provide for the uniform administration and enforcement of said Regulation, and to carry out the requirements and purposes of the Washington Clean Air Act and the Federal Clean Air Act.

D. Section 9.11 of said Regulation 1 states, in part, as follows:

- (b) With respect to odor, the Agency may take enforcement action under this section if the Control Officer or a duly authorized representative has documented all of the following:
 - (1) The detection by the Control Officer or a duly authorized representative of an odor at a level 2 or greater, according to the following odor scale:
 - level 0 - no odor detected;
 - level 1 - odor barely detected;
 - level 2 - odor is distinct and definite, any unpleasant characteristics recognizable;
 - level 3 - odor is objectionable enough or strong enough to cause attempts at avoidance; and
 - level 4 - odor is so strong that a person does not want to remain present.

2016-002

- (2) An affidavit from a person making a complaint that demonstrates that they have experienced air contaminant emissions in sufficient quantities and of such characteristics and duration so as to unreasonably interfere with their enjoyment of life and property; and
- (3) The source of the odor.

E. Kenmore and the PSCAA have determined that their mutual goal of ensuring clean air for Kenmore's citizens would be more efficiently attained if some of the odor complaint investigations described in Regulation 1, Section 9.11 (b) could be conducted by Kenmore within its jurisdiction, on behalf of the PSCAA.

F. Kenmore and the PSCAA are desirous of entering into an agreement to memorialize the terms and conditions under which Kenmore may conduct said odor complaint investigations on behalf of the PSCAA. In compliance with and under the authority of Chapter 39.34, RCW, the purpose of this Agreement is to specify said terms and conditions.

G. Given that (1) promoting and enforcing air quality is the primary responsibility of the PSCAA and not of Kenmore, (2) Kenmore is not mandated by State Law to investigate or enforce air quality complaints on behalf of the PSCAA, (3) Kenmore has limited resources, and (4) the full impact and workload requirement for Kenmore to handle air quality complaint investigations is unknown, this Agreement should be considered a temporary trial arrangement with a fixed end date and with the right of Kenmore or the PSCAA to terminate this Agreement at any time within the parameters set forth below.

Now, therefore, in consideration of the mutual promises made herein, it is hereby agreed as follows by the parties:

1. Odor Complaint Investigations. The PSCAA hereby authorizes Kenmore, on a non-exclusive basis, as Kenmore staff time and resources permit at the sole discretion of the Kenmore City Manager or his/her designee, and on behalf of the PSCAA, to conduct odor complaint investigation activities detailed in Regulation 1, Section 9.11(b) of the PSCAA, including but not limited to:

1.1 Quantifying the odor detected according to the following scale, on a written form furnished by the PSCAA:

- level 0 - no odor detected;
- level 1 - odor barely detected;
- level 2 - odor is distinct and definite, any unpleasant characteristics recognizable;
- level 3 - odor is objectionable enough or strong enough to cause attempts at avoidance; and

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level 4 - odor is so strong that a person does not want to remain present.

1.2 Interviewing the complainant(s) and obtaining from him/her/them a signed affidavit or other formal statement which describes the odor, the source of the emission, the person who the complainant believes is responsible for causing or allowing the odor, and distress or ill effects caused by the odor. Said affidavit or statement shall be completed on a form furnished to Kenmore by the PSCAA.

1.3 Determining and documenting the source of the odor, to the best of Kenmore's knowledge.

1.4 Prior to any investigation conducted by Kenmore, PSCAA shall provide all necessary training to Kenmore personnel who are tasked with conducting such investigations.

2. Submittal to PSCAA. With respect to each individual complaint, at such time as Kenmore has completed the investigation activities described in Section 1 above, Kenmore shall submit to the PSCAA any written documentation pertaining to said complaint. In its sole discretion, the PSCAA shall then determine whether or not to initiate any enforcement action.

3. Other Remedies. Nothing in this Agreement shall be construed to impair any cause of action or legal remedy which Kenmore may have for injury or damages arising from the emission of any odor in such place, manner or concentration as to constitute air pollution or a nuisance.

4. Agency Authority. Except as otherwise provided herein, neither party shall have agency authority to act for or bind the other party in any matter. This Agreement does not preclude or discourage the PSCAA from responding to and investigating air quality complaints within Kenmore. The PSCAA recognizes that Kenmore may not have the time and resources, given other competing Kenmore priorities, to respond to all air quality complaints in Kenmore.

5. Responsible Official. The Kenmore official responsible for conducting odor complaint investigations shall be the City Manager or his/ her designees. For purposes of Regulation 1, Section 9.11(b), said official(s) shall be the "duly authorized representative" of the PSCAA referenced therein.

6. Financing. The cost of conducting the odor complaint investigations performed by Kenmore described in Section 1 above shall be borne exclusively by Kenmore. The cost of any enforcement action taken as a result of the investigation shall be borne exclusively by the PSCAA.

7. Administrator. The administrator of this Agreement shall be Mario Pedroza of the PSCAA, or his successor, and he or his successor shall be responsible for administering the

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cooperative undertaking described herein.

8. Duration and Termination. This Agreement shall continue in full force and effect for a period of one (1) year from the effective date of this Agreement; provided that at any time during this Agreement either party may give the other party thirty (30) days written notice of the former's intent to terminate this Agreement. Upon the termination of this Agreement, Kenmore shall submit to the PSCAA any written documentation secured with respect to an ongoing complaint investigation.

9. Notices. All notices and other communications hereunder shall be deemed to have been duly given if delivered or mailed, certified mail, with postage prepaid (a) if to Kenmore, to:

City of Kenmore
Bryan Hampson
Development Services Director
18120 68th Ave NE
Kenmore, WA 98028

or to such other person or place as Kenmore shall furnish to the PSCAA in writing, or (b) if to the PSCAA, to:

The Puget Sound Clean Air Agency
Mario Pedroza
Supervising Inspector
1904 Third Ave, Ste 105
Seattle, WA 98101

or to such other person or place as the PSCAA shall furnish to Kenmore in writing.

10. Severability. If any part of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

11. Counterparts. This Agreement may be signed in two counterparts and, if so signed, shall be deemed one integrated Agreement.

12. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. There are no promises, terms, conditions or obligations other than those contained herein, and this Agreement shall supersede all previous communications, negotiations, representations or agreements, either verbal or written, between the parties hereto concerning the subject matter of this Agreement.

13. Amendment. This Agreement may not be modified or amended except by writing

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signed by both parties hereto.

14. Successors. This Agreement shall inure to the benefit of and be binding upon the parties, their respective successors and assigns, but no right or obligation arising hereunder may be assigned or transferred by any party without the prior written consent of the other party.

15. Governing Law. This Agreement shall be interpreted in accordance with the laws of the state of Washington.

16. Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the interpretation of this Agreement.

17. Filing. Pursuant to RCW 39.34.040, this Agreement shall be filed with the King County Division of Records or alternatively, listed by subject on the PSCAA and Kenmore web sites or other electronically retrievable public sources.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the date first above written.

CITY OF KENMORE

PUGET SOUND CLEAN AIR AGENCY

By: Rob Karlinsey
Title: City Manager
Date: _____

By: Laurie Halvorson
Title: Director – Compliance & Legal
Date: _____

APPROVED AS TO FORM BY:

APPROVED AS TO FORM BY:

Rod Kaseguma, City Attorney
Date: _____

Jennifer Dold, Agency Attorney
Date: _____

2016-002



City Of Kenmore, Washington

Memorandum

Date: July 10, 2015

To: Rob Karlinsey

From: Bryan Hampson

Re: City and Puget Sound Clean Air Agency Cooperative Odor Complaint Data

The City entered into an Interlocal Agreement with the Puget Sound Clean Air Agency (PSCAA) on October 16, 2014 for a 6 month trial period to conduct cooperative odor complaint investigations. During the initial 6 month trial period the City:

- Received 13 complaints.
- Responded to 9 complaints, 4 complaints were received after business hours.
- Reported/sent 9 complaints to PSCAA, all complaints were sent regardless of level of odor detected.
- PSCAA responded to 4 complaints received by the City, based on level of odor detected and reported.
- Enforcement action taken by PSCAA (Notice of Violation issued) on 2 complaints reported by the City, based on level odor detected and reported.

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028

Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov · www.kenmorewa.gov

Subject/Topic: 62 nd Avenue NE Corridor Improvement Project Design Proposed Council Action/Motion: Authorize the City Manager to Execute an Agreement with KPFF for the Design of the 62nd Avenue NE Corridor Improvement Project in the amount of \$122,963.	For Council Meeting Agenda of: 07/13/2015 Department: <u>Public Works</u> Prepared by: <u>John Vicente, P.E.</u> <u>Initial & Date</u> Approved by Department Head: <u>KMO 6/30/15</u> Approved by City Attorney: <u>N/A</u> Approved by Finance Director: <u>JME 6/30/15</u> Approved by City Manager: <u>RJK</u> Exhibits/Attachments: N/A
Expenditure Required \$122,963 Amount Budgeted \$828,000 Appropriation Required N/A	
<u>INFORMATION/BACKGROUND:</u> On April 13, 2015, the City advertised for a consultant to provide design services in relation to the 62nd Avenue NE Corridor Improvement Project (Project). The Project will add new sidewalk on one side of the street from State Route 522 to NE 187th Place. In addition, traffic circles are proposed at the NE 182nd, NE 184th, and NE 185th Street intersections. The Project received federal funds to design and construct the Project. The City was not allowed to use its On-Call consultant, Perteeet (they are currently working on a federal aid project), and it became a requirement to advertise for a consultant. Two consultants were interviewed and KPFF was selected to provide design services for the Project. An amended 2015-2020 CIP was adopted by Council on February 23, 2015 which included design and construction of the 62nd Avenue NE Corridor Improvement Project. Design is anticipated to start in July 2015 with construction occurring in 2017.	
<u>FISCAL CONSIDERATION:</u> The total budget for the Project is \$828,000 with a minimum City match of 10% for the design phase only (no match is required for construction). This project is funded with a federal grant in the amount of \$813,200.	
<u>Recommendation:</u> Staff recommends approval of the KPFF contract in the amount of \$122,963 which includes a 10% design contingency.	
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> 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.	



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

Subject/Topic: Public Hearing to Receive Public Testimony and Discussion with City Council to Consider New Regulations for Heavy Manufacturing Businesses and Amending and Updating Title 5, Business Licenses and Regulations. Proposed Council Action/Motion: No action requested this evening. Public hearing and Council discussion with possible Council direction to City Manager.	For Council Meeting Agenda of: <u>July 13, 2015</u> Department: <u>Development Services</u> Prepared by: <u>Bryan Hampson</u> <table style="width: 100%;"> <tr> <th style="text-align: left; font-weight: normal;">Initial & Date</th> </tr> <tr> <td>Approved by Department Head: <u>SA 7/1/15</u></td> </tr> <tr> <td>Approved by City Attorney: <u>RK via email 7/1/15</u></td> </tr> <tr> <td>Approved by Finance Director: <u>Qwe 7/1/15</u></td> </tr> <tr> <td>Approved by City Manager: <u>DK 7/1/15</u></td> </tr> </table> Exhibits/Attachments: Attachment #1: Title 5 Amendments Attachment #2: Draft Ordinance Controlling Noise Levels and Hours of Operation Attachment #3: WAC Chapter 173-60 Attachment #4: WAC Chapter 173-58 Attachment #5: Draft Ordinance Prohibiting Noise and Odors	Initial & Date	Approved by Department Head: <u>SA 7/1/15</u>	Approved by City Attorney: <u>RK via email 7/1/15</u>	Approved by Finance Director: <u>Qwe 7/1/15</u>	Approved by City Manager: <u>DK 7/1/15</u>
Initial & Date						
Approved by Department Head: <u>SA 7/1/15</u>						
Approved by City Attorney: <u>RK via email 7/1/15</u>						
Approved by Finance Director: <u>Qwe 7/1/15</u>						
Approved by City Manager: <u>DK 7/1/15</u>						
Expenditure Required \$0	Amount Budgeted \$0	Appropriation Required NA				
<u>INFORMATION/BACKGROUND:</u> Businesses engaged in heavy manufacturing, which includes the mechanical, physical or chemical transformation of materials, substances, or components into new products (such as concrete and asphalt manufacture), are likely to generate noise, fumes and odors that adversely affects the health, safety and welfare of the residents and citizens of the City. Unfortunately, existing City ordinances have not adequately protected the residents and citizens of the City from the adverse effects of heavy manufacturing noise, fumes and odors, particularly during nighttime hours. During the March 16, 2015 Council meeting, Council directed the City Manager to explore new rules and regulations to regulate negative impacts of heavy manufacturing businesses within the City of Kenmore. The following topics are the regulatory areas Council directed the City Manager to explore for Heavy Manufacturing Businesses in Kenmore: 1. Require all trucks leaving the businesses to cover loads; 2. Establish a business and occupation tax for heavy manufacturing businesses; 3. Establish a regulatory business license for heavy manufacturing businesses; 4. Establish maximum noise levels and hours of operations for heavy manufacturing, particularly during nighttime hours; and 5. Establish public nuisance noise and odor regulations. Regarding item #1, covering truck loads; RCW 46.61.655(3) provides that "Any vehicle operating on a paved public highway with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six inches of freeboard is maintained within the bed." In						

highway with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six inches of freeboard is maintained within the bed.” In other words, if there is more than six inches of freeboard within the truck bed, a truck does not need to cover dirt, sand or gravel. Because there is a State law that addresses truck covers, and this law allows truck beds with more than six inches of freeboard to be operated without covers, any city ordinance requiring a truck cover where there are more than six inches of freeboard arguably would be preempted by State law.

Regarding item #2, B&O tax: staff is continuing to explore this topic and will discuss it with the Council at a future Council meeting.

Regarding item #3, regulatory business license: The proposed amendments and updates to Title 5, Business License and Regulations, eliminate unnecessary licenses and make the terms and requirements of Title 5 internally consistent and consistent with the rest of the Code. The changes also establish a new regulatory business license for heavy manufacturing businesses. Specially, the proposed changes to Title 5 are as follows:

- Revising the name of the Title to help differentiate between a regulatory business license and the business registration program;
- Italicized defined words (to be consistent with recent code changes);
- Changing the responsible person to City Manager or his or her designee (to be consistent with recent code changes);
- Revising the General Licensing Chapter (5.05) to clarify applicability, authority, fees and refunds;
- Adding a new Heavy Manufacturing Business Chapter (5.10). The suggested regulatory license fee for a Heavy Manufacturing Business is \$200 per year. The fee will be added to the Fee Resolution;
- Removing unnecessary licenses for close out sales, dances, go cart tracks, outdoor musical events, amusement parks, carnivals and race tracks. These types of activities can be regulated by other means, such as a special event or temporary permit;
- Changed the name of Massage Businesses from Massage Parlors; and
- Added food trucks to the exempt license list.

Attachment #1 is a draft of the proposed changes to Title 5.

Regarding item #4, noise levels and hours of operation: Attachment #2 is a draft of a new ordinance controlling noise levels and hours of operations for heavy manufacturing businesses. The Washington State Department of Ecology has adopted maximum noise levels for specific environments and properties to protect against adverse effects of noise, WAC Chapter 173-60, Attachment #3. The new ordinance requires heavy manufacturing businesses to comply with WAC Chapter 173-60. It further requires heavy manufacturing businesses to monitor the noise levels with instruments that meet the requirements of WAC Chapter 173-58, Attachment #4, and submit reports to the City. The new ordinance also limits heavy manufacturing business hours to between 6:00 a.m. and 10:00 p.m. on Monday through Friday, and 8:00 a.m. and 9:00 p.m. on Saturday and Sunday.

Regarding item #5, public nuisance noise and odor regulations, reference Attachment #5: The Public Nuisance and Disturbance Noise Chapter of the City Code (Chapter 8.05) is amended to include noise coming from heavy manufacturing businesses between 6:00 a.m. and 10:00 p.m. on Monday through Friday, and 8:00 a.m. and 9:00 p.m. on Saturday and Sunday. Furthermore, the Public Nuisance Chapter of the City Code (Chapter 8.35) is amended to declare offensive odors, gases or fumes emitted from heavy manufacturing businesses to be public nuisances. These regulations are drawn from and similar to rules and regulations used by other jurisdictions.

FISCAL CONSIDERATION:

Additional staff time and resources needed to respond and manage the programs.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

To continue to implement the Council's vision of providing a safe and secure community; sustainable, healthy environment; and a desirable place to work and live. A community that is attentive to, and seeks to provide, for the health, safety and welfare of all its citizens.

ATTACHMENT #1

Title 5
REGULATORY BUSINESS LICENSES AND REGULATIONS
REGISTRATION

Chapters:

- 5.05 General Licensing Provisions
- 5.10 ~~Repealed~~ Heavy Manufacturing Businesses
- 5.15 Amusement Places
- 5.20 ~~Repealed~~
- 5.25 ~~Closing-Out-Sales~~ ~~Repealed~~
- 5.30 ~~Dances~~ ~~Repealed~~
- 5.35 ~~Go-Kart-Tracks~~ ~~Repealed~~
- 5.40 Junk Dealers
- 5.43 Marijuana Businesses
- 5.45 Massage Parlors and Public Bathhouses
- 5.50 ~~Outdoor-Musical-Entertainments~~ ~~Repealed~~
- 5.55 Pawnbrokers
- 5.60 Secondhand Dealers
- 5.65 Theaters
- 5.70 Charitable Solicitations
- 5.75 Violation – Penalties
- 5.80 Panoram Premises
- 5.85 Peddlers, Solicitors and Transient Merchants
- 5.90 Adult Cabarets
- 5.95 Adult Retail Businesses
- 5.100 Social Card Games
- 5.105 Kenmore Business Registration Program

ATTACHMENT #1

**Chapter 5.05
GENERAL LICENSING PROVISIONS**

Sections:

Article I. General Provisions

- 5.05.010 Definitions.
- 5.05.020 ~~Severability~~Applicability of chapter.
- 5.05.030 Additional rules and regulations.
- 5.05.040 Authority to suspend or revoke licenses, registration or permits.

Article II. Licensing Provisions

- 5.05.050 License, registration or permit fee – Refunds.
- 5.05.060 Form of license, registration, permit or certificate.
- 5.05.070 Posting of license, registration, permit or certificate.
- 5.05.080 Change of address.
- 5.05.090 License, registration, permit or certificate not an endorsement.
- 5.05.100 Enforcement agreements with other municipalities.

Article III. Enforcement, Procedure and
Penalty Provisions

- 5.05.110 Inspections – Right of entry.
- 5.05.120 Duties of the ~~city clerk~~ city manager.
- 5.05.130 Notice and order.
- 5.05.140 Civil penalty.
- 5.05.150 Appeals.
- 5.05.160 Violations – Misdemeanor.
- 5.05.170 Personal obligation.
- 5.05.180 Enforcement power.

Article I. General Provisions

5.05.010 Definitions.

For the purpose of all chapters of this title except chapter 5.105, all business license ordinances the words and phrases used shall have the following meanings herein, unless the context otherwise indicates, ~~shall have the following meanings:~~

ATTACHMENT #1

A. "Certificate" means any certificate or renewal of certificate issued pursuant to this title ~~any business license ordinance~~;

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

C. "Department" means the City Department or outside agency assigned by the city manager to administer a portion of the City code.

~~BD.~~ "License" means any license or renewal of license issued pursuant to this title ~~any business license ordinance~~;

~~CE.~~ "Licensee" means any person to whom a license or renewal of license has been issued pursuant to this title ~~any business license ordinance~~;

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~~DE.~~ "Permit" means any permit or renewal of permit issued pursuant to this title ~~any business license ordinance~~;

~~EG.~~ "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity;

~~FH.~~ "Registrant" means any person to whom a registration or renewal of registration has been issued pursuant to this title ~~any business license ordinance~~;

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~~GI.~~ "Registration" means any registration or renewal of registration issued pursuant to this title ~~any business license ordinance~~.

5.05.020 SeverabilityApplicability of chapter.

This chapter shall apply to all chapters in this title except chapter 5.105, the "Kenmore Business Registration Program."~~Should any section, subsection, paragraph, sentence, clause or phrase of any business license ordinance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of such business license ordinance.~~

5.05.030 Additional rules and regulations.

The city manager or his or her designee is authorized to make and enforce rules and regulations, not inconsistent with the provisions of any business license ordinance, and it is unlawful to violate or fail to comply with any of the rules and regulations. All of such rules and regulations as promulgated by the city clerk-city manager shall be reduced to writing and mailed to each licensee or permit holder for his information and for distribution to his registrants or employees.

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5.05.040 Authority to suspend or revoke licenses, registration, ~~or permits~~ or certificates.

The ~~city clerk~~ city manager shall have the right to suspend or revoke any business ~~license, registration, or~~ permit or certificate issued upon a showing of violation of any of the provisions of any business license ordinance under this Title based on one or more of the following grounds:

1. The ~~application~~ license, registration, permit or certificate was procured by fraud or false representation of fact;

2. The ~~licensee, registrant, permit holder or certificate holder~~ has failed to comply with any provisions of this Title;

3. The ~~licensee, registrant, permit holder or certificate holder~~ has failed to comply with any provisions of the this code KMC or city ordinance;

4. The business violates any building, fire, health or safety regulations on the premises in which the business is located after receiving warning from the city to refrain from such violations;

5. The ~~licensee, registrant, permit holder or certificate holder~~ is in default of any license fee or tax under this Title;

6. The ~~licensee, registrant, permit holder or certificate holder or employee thereof~~ has been convicted of a crime involving the business.

~~Provided, however, that such suspension or revocation shall not relieve the licensee, registrant, or permit holder or certificate holder of the other penalties applicable to the business or its activities otherwise provided for in any business license ordinance.~~

Article II. Licensing Provisions

5.05.050 ~~Application procedure--Fees~~ License, registration or permit fee— Refunds.

A. ~~The person who intends to conduct, operate or engage in the business for which the license is to be issued shall sign and submit an application for the license, registration or permit. Unless provided otherwise in this title, the application shall state the nature and address or addresses of the business or businesses, or proposed business or businesses, of the applicant, and such other information as may be required by the city manager. A nonrefundable fee as provided for in subsection B shall accompany the application. Any application or issuance or renewal of a license, registration or permit pursuant to any business license ordinance shall not be accepted by the city clerk city manager unless accompanied by the appropriate license, registration or permit fee.~~

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B. The fees and penalties associated with the licenses, registrations or permits provided for in this title shall be as set forth in a fee resolution adopted by the city council.

C All licenses, registrations and permits shall be renewable on the thirty-first day of December of each year. Fees becoming due for less than one year shall be prorated on a quarterly basis, unless otherwise provided in the fee resolution adopted by the city council.

D. The city manager shall approve or deny the license, pursuant to the terms and conditions of this title. If specific terms and conditions of the license, registration or permit are not set forth in this title, the city manager shall grant the license, registration or permit if the proposed business meets all current zoning and city building code requirements. If the city manager denies the application, the city manager shall state the reasons for the denial.

In the event an application for a license, registration or permit fee is refused, the amount tendered as the license, registration or permit fee shall not be returned to the applicant but shall go to the City to defray the cost of examination or investigation, or both.

5.05.060 Form of license, registration, permit or certificate.

All licenses, registrations, permits or certificates, issued pursuant to any business license ordinance, shall be in a form prescribed by the city clerk city manager.

5.05.070 Posting of license, registration, permit or certificate.

Any license, registration, permit or certificate, issued pursuant to any business license ordinance, shall be posted in a conspicuous place in the place of business of the licensee, registrant, permit or certificate holder.

5.05.080 Change of address.

Any licensee, registrant or permit holder person licensed, registered or permitted pursuant to any business license ordinance shall notify the city clerk city manager of any change in his address, business name, or in the officers, directors, or partners of such person within 14 days of any such change.

5.05.090 License, registration, permit or certificate not an endorsement.

No license, registration, permit or certificate, issued pursuant to any business license ordinance, shall be an endorsement of such business licensed, registered, or permitted or certificated under any business license ordinance.

5.05.100 Enforcement agreements with other municipalities.

The city manager or his or her designee is authorized to enter into agreements with any or all other municipal corporations for the licensing and enforcement of local ordinances relating to businesses or

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entertainments licensed, registered or permitted by the city pursuant to any business license ordinance; provided, that any municipal corporation entering into such an agreement shall enact an ordinance substantially similar to this title the applicable City of Kenmore business license ordinance.

Article III. Enforcement, Procedure and Penalty Provisions

5.05.110 Inspections – Right of entry.

A. The code enforcement officer-city manager is authorized to make such inspections and take such action as may be required to enforce the provisions of this title any business license ordinance.

B. Whenever necessary to make an inspection to enforce any of the provisions of this title any business license ordinance, or whenever the city clerk-city manager has reasonable cause to believe that a licensee, registrant or permit holder is operating in violation of this title or any city manager rules or regulations any business license ordinance, the code enforcement officer-city manager may enter such licensee's, registrant's or permit holder's place of business or entertainment, which is licensed, registered or permitted pursuant to this title any business license ordinance, at all reasonable times to inspect the same or perform any duty imposed on the city clerk-city manager by this title any business license ordinance; provided, that:

1. If the place of business or entertainment is occupied, the code enforcement officer-city manager shall first present proper credentials and demand entry; and

2. If the place of business or entertainment is unoccupied, the code enforcement officer-city manager shall first make a reasonable effort to locate the licensee, registrant or permit holder or other person(s) having charge or control of the place of business or entertainment and demand entry.

C. No person shall fail or neglect, after proper demand, to admit the code enforcement officer-city manager, while acting within the scope of the city manager's employment, to any place of business or entertainment licensed, registered or permitted pursuant to this title any business license ordinance, or to interfere with the code enforcement officer-city manager while in the performance of the city manager's duty.

5.05.120 Duties of the city clerk-city manager.

The city clerk-city manager is authorized and directed to enforce the terms and provisions of this title all business license ordinances. If the city manager determines it is determined, by means of investigation or inspection, that any person has violated or failed to comply with any provision of this title any business

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license ordinance, then the city clerk-city manager shall issue a notice and order recording such findings, specifying therein the particulars of any such violation or failure to comply.

5.05.130 Notice and order.

A. The city clerk-city manager shall issue a notice and order, pursuant to KMC 5.05.120, directed to the person whom the code enforcement officer-city manager has determined to be in violation of any of the terms and provisions of this titleany business license ordinance. The notice and order shall contain:

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1. The street address, when available, and when available a legal description, sufficient for identification of the premises upon which the violation occurred;

2. A statement that the code enforcement officer-city manager has found the conduct of the person to be in violation of this titleany business license ordinance, with a brief and concise description of the conditions found to render such person in violation of this titlesuch business license ordinance;

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3. A statement of any action required to be taken, as determined by the city clerk-city manager. If the city clerk-city manager has determined to assess a civil penalty, the order shall require that the penalty shall be paid within a time certain from the date of the order as determined by the city clerk-city manager to be reasonable;

4. A statement of any action taken by the city clerk, if any-city clerk-city manager;

5. Statements advising:

a. That the person may appeal from the notice and order of any action of the city clerk-city manager to the Kenmore hearings examiner, provided the appeal is made in writing as provided in this chapter and filed with the city clerk-city manager within seven days from the date of service of such notice and order; and

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b. The failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

B. The notice and order, and any amended or supplemental notice and order, shall be served upon the person either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested to such person at the person's address as it appears on the license, registration or permit. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

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C. Proof of service of the notice and order shall be made at the time of service by a written declaration under penalty of perjury executed by the *person* effecting service, declaring the time, date, and manner in which service was made.

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5.05.140 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any *person* who violates any provision of ~~this title~~*any business license ordinance* shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation to be directly assessed by the *city manager*. The *city manager*, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the *license, registration or permit* fee required of the violator, the gravity of the violation, the number of past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified in this chapter.

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5.05.150 Appeals.

A. The ~~city~~*Kenmore* hearings examiner is designated to hear appeals by parties aggrieved by actions of the ~~city clerk-city manager~~ pursuant to ~~this title~~*any business license ordinance*. The hearings examiner may adopt reasonable rules or regulations for conducting its business. Copies of all rules and regulations adopted by the hearings examiner shall be delivered to the ~~city clerk-city manager~~ who shall make them freely accessible to the public. All decisions and findings of the hearings examiner shall be rendered to the appellant in writing with a copy to the ~~city clerk-city manager~~.

B. Any *person* entitled to service pursuant to KMC 5.05.130 may appeal from any notice and order or any action of the ~~city clerk-city manager~~ by filing at the office of the ~~city clerk-city manager~~ within seven days from the date of service of such order, a written appeal containing:

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1. A heading in the words: "Before the Kenmore hearings examiner;
2. A caption reading: "Appeal of" giving the names of all appellants participating in the appeal;
3. A brief statement setting forth the legal interest of each of the appellants in the business or entertainment involved in the notice and order;
4. A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;
5. A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside;

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6. The signatures of all parties named as appellants, and their official mailing addresses;

7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

C. As soon as practicable after receiving the written appeal, the hearings examiner shall fix a date, time, and place for the hearing of the appeal by the hearings examiner. Such date shall be not less than 10 days nor more than 60 days from the date the appeal was filed with the ~~city clerk~~ city manager. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the hearings examiner either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

D. At the hearing the appellant shall be entitled to appear in person and be represented by counsel and offer such evidence pertinent and material to the action of the ~~city clerk~~ city manager.

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E. Only those matters or issues specifically raised by the appellant in the written notice of appeal shall be considered in the hearing of the appeal.

F. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of ~~the person's~~ his right to an administrative hearing and adjudication of the notice and order, or any portion thereof.

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G. Enforcement of any notice and order of the ~~city clerk~~ city manager shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

5.05.160 Violations – Misdemeanor.

Any person violating or failing to comply with any of the provisions of ~~this title~~ any business license ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in any sum not to exceed \$250.00 or by imprisonment ~~in the King County jail~~ for a period not to exceed 90 days.

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5.05.170 Personal obligation.

The civil penalty is a personal obligation of the licensee, registrant or permit holder. The city attorney ~~prosecuting attorney~~, on behalf of the City of Kenmore, may collect the civil penalty by use of all appropriate legal remedies.

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5.05.180 Enforcement power.

The city manager is authorized to take such lawful action, including the writing and issuance of misdemeanor citations, as may be required to enforce the provisions of any business license ordinance codified in this title.

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5.05.190 Fees

~~The fee to obtain or renew a regulatory business license shall be set forth in a fee resolution adopted by the city council. Fees shall be payable on the thirty first of December preceding the year for which the license is issued. Fees becoming due for less than one year shall be prorated on a quarterly basis, unless otherwise noted in the adopted fee resolution.~~

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5.05.200 Renewal of license, registration or permit late penalty:

~~A late penalty shall be charged on all applications for renewal of a license, registration, or permit received later than 10 working days after the expiration. A penalty fee pursuant to the city's adopted fee resolution shall apply to such licenses.~~

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Chapter 5.10**HEAVY MANUFACTURING BUSINESSES**Sections:5.10.010 License required.5.10.020 Definitions.5.10.030 Compliance with law.

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5.10.010 License required.

It is unlawful for any person to engage in the business of heavy manufacturing without first obtaining a business license from the city. If more than one business is conducted on a single premises, a separate license shall be required for each separate business conducted, operated, engaged in or practiced.

5.10.020 Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

A. "Business" means any commercial enterprise or activity conducted by any person or persons on any premises in the city.

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B. "Heavy manufacturing" means an establishment engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products that is likely

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to generate levels of truck traffic, noise, pollution, vibration, dust, fumes, odors, radiation, poisons, pesticides, or other hazardous materials, fire or explosion hazards, or other undesirable conditions that would be injurious to health or offensive to the senses, or would be an obstruction to the free use of surrounding property and essentially interfere with the comfortable enjoyment of life and property. Heavy raw materials may require significant outdoor storage. Examples include concrete manufacture, asphalt batch plants, mass production of commercial or recreational vehicles or large machinery, production of industrial organic and inorganic chemicals, animal slaughtering, and refining, extruding, rolling, or drawing of ferrous or nonferrous metals.

C. "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, canvasser, peddler, solicitor, society, or any group of individuals acting as a unit, whether mutual cooperative, fraternal, nonprofit or otherwise, and includes the United States or any instrumentality thereof.

D. "Premises" means all lands, structures and places, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

5.10.030 Compliance with law.

The heavy manufacturing business shall comply with all applicable provisions of this code and city ordinances, which shall be enforced pursuant to the enforcement and penalty provisions of this title.

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Chapter 5.15 AMUSEMENT PLACES

Sections:

- 5.15.010 Definitions.
- 5.15.020 License required – Fee.
- 5.15.030 License investigation.
- 5.15.040 ~~Standards for denial of license.~~ Repealed
- 5.15.050 Due date for license fees.
- 5.15.060 License applications – Public amusement/entertainment license.
- 5.15.070 License display.
- 5.15.080 Business hours.
- 5.15.090 Outdoor sports exempt from code.
- 5.15.100 ~~Race tracks and dragstrips.~~ Repealed
- 5.15.110 Standards for public amusement/entertainment license suspension or revocation.
- 5.15.120 ~~Severability.~~ Repealed
- 5.15.130 Penalty for violation.
- 5.15.140 Civil penalty.
- 5.15.150 Additional enforcement.
- 5.15.160 Limitation of liability.

5.15.010 Definitions.

For the purpose of this chapter, "public place of amusement," "public amusement/entertainment," and "public entertainment" mean an amusement, diversion, entertainment, show, performance, exhibition, display or like activities for the use or benefit of a member or members of the public, or advertised for the use or benefit of a member of the public, held, conducted, operated or maintained for a profit, direct or indirect, but not including adult entertainment businesses.

5.15.020 License required—~~Fee~~.

A public place of amusement shall not be operated or maintained in the ~~city~~ City of Kenmore unless the owner or lessee thereof has obtained a license from the ~~city clerk~~ city manager, as follows for the following types of entertainment:

1. Live entertainment;
2. Music (other than mechanical);
3. Boxing or wrestling;

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4. Pool halls; and

5. Bowling alleys.

Type of Entertainment Miscellaneous (includes, but is not limited to):	Fee
Live entertainment; music (other than mechanical); boxing or wrestling; exhibition skating; video arcades; pool halls; bowling alleys; race tracks and drag strips (if attendance is more than 2,000 people at a single event)	Imposed by the city council by resolution (covers one or more skating rinks; shooting galleries; entertainment)
Amusement parks— Permanent	Imposed by the city council by resolution
Carnivals	Imposed by the city council by resolution

5.15.030 License investigation.

The ~~city clerk~~ *city manager* shall refer an application for a *license* to the *department of code enforcement* for a report on compliance with all applicable fire, building and zoning codes of the *City of Kenmore*.

The ~~department code enforcement officer or the city clerk's designee~~ shall respond to the *city manager* *city clerk* within 20 days.

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5.15.040 Standards for denial of license.

The city clerk shall deny any public amusement/entertainment license applied for under this chapter for any of the following reasons and shall notify the applicant in writing of the grounds for the denial and the opportunity to appeal:

A. The applicant knowingly made a false, misleading or fraudulent omission or representation of material fact on the application for the license;

B. The proposed place of business or establishment to be licensed does not comply with all applicable requirements of the fire, building and zoning codes of the City of Kenmore.

5.15.050 Due date for license fees.

All license fees are due and payable to the cityCity of Kenmore licensing section at least 20 days before the opening of entertainment.

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5.15.060 License applications – Public amusement/entertainment license.

An application for a public amusement/entertainment license must be submitted in the name of the person or entity proposing to provide such public amusement/entertainment on the business premises and shall be signed by such person or his agent and notarized or certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city managercity clerk, which shall require the following information:

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A. The name, current residential and mailing addresses, and date and place of birth of the applicant if the applicant is an individual, the partners if the applicant is a partnership and the officers and directors if the applicant is a corporation;

B. The business name, address and telephone number of the establishment;

C. If the applicant is a corporation, limited liability company or partnership, the legal name of the entity, the date and place of incorporation or formation, and the name and address of any registered agent for service of process;

D. Whether the applicant proposes to serve any alcoholic beverages on the premises and the status of the business's liquor license or application for a liquor license issued by the Washington State Liquor Control Board; and

E. The nature of the business conducted on the premises and the proposed public amusement/entertainment.

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5.15.070 License display.

The *public entertainment/amusement license* issued under this chapter shall be prominently displayed on the licensed premises.

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5.15.080 Business hours.

No *public entertainment* shall be conducted between the hours of 2:30 a.m. and 10:00 a.m.; provided, that public dancing and those activities related to public dancing licensed by the *city, City of Kenmore* such as live musical entertainment, shall be permitted until 4:00 a.m. in establishments which have a class "H" liquor license.

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5.15.090 Outdoor sports exempt from code.

No *license* shall be required for any recognized outdoor sports.

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~~5.15.100 Race tracks and dragstrips.~~

~~Applicants must submit, for any amusement place license for a race track or dragstrip, whether automobile or otherwise, where the expected attendance will exceed 2,000 people at any single scheduled event, information as deemed appropriate by the Kenmore police department to insure that adequate traffic control and crowd protection policing has been arranged through private security agencies or has been contracted for with the police department. A written notice that the applicant has complied with the requirement shall be issued by the chief of police or his or her designee before an amusement place license shall be issued; provided, that if the applicant should contract for traffic control and crowd protection policing with the City of Kenmore, in no event should the sum agreed upon in payment for such policing be less than the actual expense incurred by the City in providing that service. Such consideration shall be calculated for personnel resources on the hourly rate for overtime under the current collective bargaining agreement, plus that percentage then being paid for fringe benefits, and all sums paid under such contract shall be paid in accordance with procedures specified by the City of Kenmore.~~

5.15.110 Standards for public amusement/entertainment license suspension or revocation.

The *city manager city clerk* shall revoke or suspend, for not more than one year, any *public amusement/entertainment license* if he or she determines that the *licensee* or applicant has:

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A. Obtained or renewed the *license* through a false, misleading or fraudulent omission or representation of material fact on the application; or

B. Violated or permitted or authorized any violation of any provisions of this chapter by any *person*.

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~~5.15.120 Severability.~~

~~If any section, sentence, clause or phrase of this chapter should be held invalid or unconstitutional, the validity or constitutionality thereof shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this chapter.~~

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5.15.130 Penalty for violation.

Any *person* violating any of the terms of this chapter shall, upon conviction thereof, be fined in the sum of not less than \$10.00 nor more than \$300.00 or by imprisonment ~~in the county jail~~ for not more than 90 days, or both.

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5.15.140 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any *person* who violates any provision of ~~this chapter~~~~any business license ordinance~~ shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation, to be directly assessed by the *city manager*. The *city manager*, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed, and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title.

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5.15.150 Additional enforcement.

Notwithstanding the existence or use of any other remedy, the *city manager* may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted.

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5.15.160 Limitation of liability.

This chapter is not intended to create a cause of action or provide the basis for a claim against the *City*, its officials or its employees for the performance or the failure to perform a duty or obligation running to a specific individual or specific individuals. A duty or obligation created under this chapter is intended to be a general duty or obligation running in favor of the general public. ~~{Ord. 98-0017 §§ 1, 2 (KCC 6.08-150).}~~

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Chapter 5.25
CLOSING OUT SALES

(Repealed)

Sections:

- 5.25.010—Definitions generally.
- 5.25.020—Sale defined.
- 5.25.030—Advertising, etc. defined.
- 5.25.040—Inspector, investigator defined.
- 5.25.050—Goods defined.
- 5.25.060—License required.
- 5.25.070—Conditions for issuance.
- 5.25.080—Application for license.
- 5.25.090—Issuance.
- 5.25.100—License fee—Bond.
- 5.25.110—License conditions.
- 5.25.120—Closing out a sales license—Fee.
- 5.25.130—License renewal.
- 5.25.140—Renewal of license, registration or permit—Late penalty.
- 5.25.150—General rules and regulations.
- 5.25.160—Commingling of goods.
- 5.25.170—Removal of goods—Loss of identity.
- 5.25.180—Inspection of premises.
- 5.25.190—Records.
- 5.25.200—Duties of licensee.
- 5.25.210—Persons exempted.
- 5.25.220—Penalties for violation.
- 5.25.230—Civil penalty.
- 5.25.240—Additional enforcement.

5.25.010 Definitions generally.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall be deemed to mean and be construed herein as follows in this chapter. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.010).]

5.25.020 Sale defined.

"Sale" means the following:

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A. Any sale of or any offer to sell to the public, goods, wares or merchandise, on order, in connection with the declared purpose as set forth by representing or advertising that such sale is anticipatory to or is to avoid the termination, liquidation, revision, windup, discontinuance, dissolution or abandonment of a business or portion of the business conducted at any location.

B. Any sale accompanied by representation or advertising indicating an economic or business emergency or failure affecting the seller or any previous holder of the goods to be disposed of.

C. Any sale accompanied by representation or advertising which in any manner does or is intended to convey to the public the belief that upon disposal of the goods to be placed on sale, the business or a portion thereof being conducted at any location is contemplated to be or will be interrupted or removed and changed.

D. Any sale represented or advertised which in any manner does or is intended to indicate that the goods, wares or merchandise to be sold, or any part thereof, has been involved in any business failure or has been derived from a business which has failed, been closed, discontinued or liquidated.

E. Any sale represented or advertised which does or is intended to indicate that the goods, wares, merchandise to be sold, or any part thereof, are goods damaged or altered by fire, smoke, water or other means.

F. Any sale pursuant to the aforementioned definitions, including but not limited to a sale which is represented, advertised or held forth in any of the following terms: "adjustor's sale," "adjustment sale," "assignee's sale," "bankrupt sale," "benefit of administrator's sale," "benefit of creditor's sale," "benefit of trustee's sale," "building coming down sale," "closing sale," "closing out sale," "consolidation sale," "creditors' committee sale," "creditors' sale," "discontinuance of business sale," "executor's sale," "final days sale," "fire sale," "forced out sale," "forced out of business sale," "going out of business sale," "insolvent sale," "insurance salvage sale," "last days sale," "lease expires sale," "lease expiring sale," "liquidation sale," "loss of lease sale," "merger sale," "mortgage sale," "must vacate sale," "quitting business sale," "receiver's sale," "removal sale," "reorganization sale," "salvage sale," "selling out sale," "smoke sale," "smoke and water damage sale," "trustee's sale," "water damage sale," "wholesale closing out sale," "we quit sale," "we give up sale," "fixtures for sale," or advertised or represented by any other expression or designation similar to any of the foregoing and calculated to convey the same meaning. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.020).]

5.25.030 Advertising, etc. defined.

"Advertise," "advertisement," "advertising," "publish," "publication," "represent," "representation" means any and all means, whether oral, written, lettered or printed, used to convey to the public notice of the

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conduct of a sale as defined in KMC 5.25.020, or notice of intention to conduct such sale, including but not limited to oral or written announcements by proclamation or outcry, newspaper advertisement, magazine advertisement, handbill, written or printed notice, printed display, billboard display, poster, radio and television announcement. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.030).]

5.25.040 Inspector, investigator defined.

"Inspector" or "investigator" means an inspector or investigator appointed by and/or authorized by the city clerk. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.040).]

5.25.050 Goods defined.

"Goods" means any goods, wares, merchandise or other property capable of being the object of a sale as regulated herein. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.050).]

5.25.060 License required.

It is unlawful for any person to advertise, publish, represent or conduct any sale of goods in the City of Kenmore unless a license has been obtained as hereinafter provided. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.060).]

5.25.070 Conditions for issuance.

The following persons shall not be granted a license if he or she:

A. Has not been the owner of a business advertised or described in the application for a license hereunder for a period of at least 90 days prior to the date of the application; provided, upon the death of a person doing business, his or her heirs, devisees or legatees shall have the right to apply at any time for a license;

B. Has held a sale, as regulated by this chapter, at the location stated in the application for license within six months from the date of such applications;

C. Has been convicted of violating this chapter or any part hereof, or a person who has in his employ for the conduct of the sale as regulated by this chapter one who has been convicted of violating this chapter within a period of one year prior to the date of the application for a license. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.070).]

5.25.080 Application for license.

No license to conduct a sale, as defined herein, shall be granted except upon written application to the city clerk which shall be signed and sworn to by the person who intends to conduct such sale or his duly authorized agent. Such application shall contain the following information:

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A. The true name, home address and business address of the owner of the goods to be the object of the sale and the true name, home address and business address of the person who shall conduct the sale if not the owner of the goods;

B. Whether the proposed sale is to be held at the applicant's or owner's existing, regularly established place of business;

C. Description, by street address or location, and kind of building where such sale is to be held;

D. The nature of the occupancy, whether by ownership, lease or sublease; and if by lease or sublease, the effective date of the termination of same;

E. The dates when such sale is to be conducted;

F. A copy of all advertisements or a statement of all advertising themes to be used in connection with such sale and a statement of the means or methods of advertising to be used in advertising such sale;

G. A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;

H. A complete and detailed inventory setting forth the amount and description of goods to be sold at such sale, and the date of acquisition of such goods and the name and address of the person from whom obtained and the place from which such goods were last taken. The inventory shall be attached to and become part of the required application. The city clerk may require in addition that all goods listed upon the inventory be so described in detail by manufacturer's name and lot number, the individual number of articles so numbered, colors, sizes and otherwise that the identity of such goods with the goods listed on such inventory can be readily determined. In addition, the city clerk may require a listing of each article to be sold together with an inventory number for each article;

I. A showing that the applicant has made a return to the King County assessor of the property in his possession or ownership and the value thereof for tax assessment purposes, and that the applicant has paid any tax due;

J. Such other information as the city clerk may require. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.080).]

5.25.090 Issuance.

Upon filing of the application, the city clerk may make or cause to be made an examination, audit or investigation of the applicant and his affairs in relation to the proposed sale. If the city clerk finds that the statements in the application are true, that the inventory is complete, that the advertising or advertising

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theme set forth is not false, fraudulent, deceptive or misleading in any respect, and that the methods to be used by the applicant in conducting the sale are not such as, in the opinion of the city clerk, will work a fraud upon the purchasers, the city clerk shall issue a license to conduct such sale in accordance with the provisions of this chapter; provided, the city clerk may refuse to issue a license because of the insufficiency of the information set forth in the application, but in such event the applicant shall be permitted to file an amended application; further provided, that, no license shall be issued until the applicant shows that he has made a return to the King County assessor of the property in his possession or ownership and the value thereof for tax assessment purposes and has paid any tax due. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.090).]

~~5.25.100 License fee—Bond.~~

All applications for license must be made at least 60 days and not more than 90 days before the date the sale is to commence and the applicant shall file with the city clerk a bond in a form approved by the city clerk, executed by a surety company authorized to do business in this State, in an amount equal to one-half of the cost value of the goods inventoried for sale, the bond shall be approved by the city clerk. The bond shall run to the City of Kenmore, and shall state that it is for the use or benefit of persons who may be damaged by the violation of this chapter by the licensee, his employees or agents, or who may have a cause of action against the licensee, his employees or agents, by reason of any matters arising out of the conduct of the sale. Any such person shall have, in addition to any other right of action which he may have, a right of action on such bond for all damages not exceeding \$1,000, and the aggregate liability of the surety upon the bond for all claims which may arise thereunder shall not exceed the sum specified in the bond. The city clerk shall, upon compliance with all the requirements set forth in this chapter, issue a license to hold a sale as herein provided; provided, any person who has been conducting a business in the same location where the sale is to be held for a period of not less than one year, prior to the date of the application for a license hereunder, shall be excepted from the filing of the bond herein provided. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.100).]

~~5.25.110 License conditions.~~

Any license issued under the provisions of this title shall authorize the type of sale named in the application, at the place named therein, for a period of not more than 30 consecutive days, Sundays and legal holidays excluded, and shall permit the sale of goods which are set forth in the application and inventory, all of which goods throughout the duration of the sale must be definitely separated by partition or temporary partition from any other goods displayed at, or within the store or place of business, and all advertising, signs or notices referred to or calling attention to the sale must be confined to the display, or displayed goods involved in the sale. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.110).]

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~~5.25.120 Closing out a sales license — Fee.~~

~~The fee for closing out a sales license shall be imposed by the city council by resolution. [Ord. 02-0139 § 1; Ord. 98-0017 §§ 1, 2 (KCC 6.16.115).]~~

~~5.25.130 License renewal.~~

~~The city clerk may, upon a verified application therefor, renew the license for a period not to exceed 30 days, upon payment of a renewal fee in the amount imposed by the city council by resolution. Such verified application for renewal shall set forth a complete list of goods listed in the original application and remaining unsold, and shall certify that it does not contain any goods not named in such original application. Upon receipt of such application, the city clerk may cause an investigation to be made, and if satisfied of the truth of the statements contained therein, the city clerk shall grant such renewal within 15 days after such application, which shall be endorsed and signed as provided for in the original license. The city clerk may renew any original license in the manner above provided, not to exceed two times, upon the payment of the sum imposed by the city council by resolution for such renewal; provided, however, that the city clerk may not issue licenses or renewals which will allow the conduct of any sale as provided herein at any one location for more than 90 consecutive days, Sundays and legal holidays excluded, in any one 12-month period. [Ord. 02-0139 § 1; Ord. 98-0017 §§ 1, 2 (KCC 6.16.120).]~~

~~5.25.140 Renewal of license, registration or permit — Late penalty.~~

~~A late penalty shall be charged on all applications for renewal of a license, registration or permit received later than 10 working days after the expiration date of such license, registration or permit as set forth in the respective resolution or ordinance establishing the expiration date of such license, registration or permit. The amount of such penalty is fixed as follows:~~

~~A. For a license, registration or permit requiring a fee of \$0.50 or more, but less than \$50.00, 20 percent of the required fee;~~

~~B. For a license, registration or permit requiring a fee of \$50.00 or more, but less than \$1,000, 10 percent of the required fee;~~

~~C. For a license, registration or permit requiring a fee of \$1,000 or more, five percent of the required fee. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.130).]~~

~~5.25.150 General rules and regulations.~~

~~The license as issued pursuant to this chapter shall be valid only for the advertising, representations and sale of the particular goods, wares or merchandise described in the original application therefor, and at the particular time, and particular place stated therein, and by the particular applicant or his executor or administrator, and any renewal, replenishment or substitution of such goods, wares or merchandise, or~~

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change of such time or place for such sale, or change of person conducting the sale, is unlawful and shall render such license void. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.140).]

5.25.160 Commingling of goods.

No person in contemplation of conducting any sale, or during the continuance of such a sale, shall order any goods for the purpose of commingling or selling them at such sale, and any unusual purchase or additions to the stock within 90 days before the filing of such application for a license to conduct such a sale shall be presumptive evidence that such purchase or additions were made in contemplation of such sale and for the purpose of commingling or selling them at such sale. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.150).]

5.25.170 Removal of goods—Loss of identity.

Any removal of any goods, wares or merchandise inventoried and described in the original application form from the place of sale mentioned in such application shall cause such goods to lose their identity as the stock of any of the sales defined herein, and no license thereafter will be issued for the conducting of a sale of any goods, wares or merchandise in such manner as to identify them with the store, store name, store owner or location referred to in the original application. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.160).]

5.25.180 Inspection of premises.

A duplicate original of the application and stock inventory, pursuant to which such license was issued, shall at all times be available to the city clerk at the place of such sale and the holder of the license shall permit the city clerk to examine all merchandise in the premises for comparison with such stock inventory. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.170).]

5.25.190 Records.

Suitable books and records, including total receipts of both cash and credit sales, shall be kept by the licensee and shall at all times be available to the city clerk, his inspector and investigators for inspection. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.180).]

5.25.200 Duties of licensee.

A licensee, his employees and agents shall:

- A. Not sell goods at a sale for which the application was obtained unless the same was listed in the inventory accompanying the application;
- B. Represent to the public the true manufacture, quality and kind of said goods. If requested by anyone, a copy of the inventory will be shown;

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C. Not cause to be sold goods which have been falsely described or concerning which any false statement has been made. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.190).]

5.25.210 Persons exempted.

The provisions of this chapter shall not apply to or affect the following persons:

A. Persons acting pursuant to an order or process of a court of competent jurisdiction;

B. Persons acting in accordance with their powers and duties as public officials;

C. Persons conducting jewelry and appliance auctions in accordance with Chapter 18.12 RCW;

D. Persons conducting a sale of the type regulated herein on the effective date of this chapter, unless such sale is continued for a period of more than 30 days from and after such effective date, in which event such person, at the lapse of the 30-day period, shall comply with the provisions of this chapter;

E. Any publisher of a newspaper, magazine or other publication or radio or television station, who publishes any such advertisement in good faith, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this chapter have not been complied with. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.200).]

5.25.220 Penalties for violation.

Every person as principal, agent or otherwise failing, neglecting or refusing to comply with any provision of this chapter, or violating the same, is guilty of a misdemeanor. Each separate sale or offering for sale of goods, wares or merchandise in violation of the provisions of this chapter shall constitute a separate offense hereunder. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.210).]

5.25.230 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any person who violates any provision of any business license ordinance shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation to be directly assessed by the city manager. The city manager, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.220).]

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~~5.25.240 Additional enforcement.~~

~~Notwithstanding the existence or use of any other remedy, the city manager may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted. [Ord. 98-0017 §§ 1, 2 (KCC 6.16.230).]~~

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**Chapter 5.30
DANCES**

(Repealed)

Sections:

- ~~5.30.010—General provisions—Applicability.~~
- ~~5.30.020—Definitions.~~
- ~~5.30.030—Dance or dance hall license or permit—Required—Exceptions.~~
- ~~5.30.040—Dance hall license—Application.~~
- ~~5.30.050—Dance permit—Application.~~
- ~~5.30.060—Dance hall license—Investigation.~~
- ~~5.30.070—Dance or dance hall—Prerequisites to license or permit issuance.~~
- ~~5.30.080—Hours of operation.~~
- ~~5.30.090—Public youth dance—Hours of operation—Age restrictions—Penalty.~~
- ~~5.30.100—Public youth dance—Readmission fee.~~
- ~~5.30.110—Fees.~~
- ~~5.30.120—Denial of license or permit.~~
- ~~5.30.130—Suspension or revocation of license or permit.~~
- ~~5.30.140—Transferability of license or permit.~~
- ~~5.30.150—Civil penalty.~~
- ~~5.30.160—Additional enforcement.~~
- ~~5.30.170—Severability.~~

~~5.30.010 General provisions—Applicability.~~

~~This chapter is subject to the general licensing provisions of Chapter 5.05 KMC. In the event of a conflict between this chapter and Chapter 5.05 KMC, the provisions of this chapter shall apply. The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal or modify any of the provisions of any other law or City ordinance relating to dance halls or licensing. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.004).]~~

~~5.30.020 Definitions.~~

~~For the purpose of this chapter and unless the context plainly requires otherwise the following definitions are adopted:~~

~~A. "Public dance" means any dance which is open to the public and which is held and conducted for a profit, direct or indirect.~~

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B. "Public youth dance" means any public dance that is readily accessible to the public and which permits the entry of any persons under the age of 18 years. For the purposes of this chapter, the term "public dance" shall be construed so as to include all "public youth dances" except where specifically indicated otherwise.

C. "Public dance hall" means any place where a public dance is conducted, operated or maintained and includes the premises on which the public dance is conducted, operated or maintained and any and all areas attached to or adjacent to such premises including, but not limited to, all parking areas, hallways, bathrooms and all adjoining areas on the premises accessible to the public during the dance. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.010).]

5.30.030 Dance or dance hall license or permit—Required—Exceptions.

A. It is unlawful for any person to conduct, operate or maintain a public dance or public dance hall unless the person who is conducting, operating or maintaining such public dance or public dance hall has obtained a license or permit in the manner prescribed in this chapter.

B. Exceptions. The requirements of this chapter shall not apply if:

1. The public dance is sponsored by an accredited educational institution; or
2. The public dance is sponsored by a nonprofit tax exempt organization, corporation or association recognized by the United States of America as exempt from federal income taxation pursuant to 501(c)(1) or (3) of the Internal Revenue Code of 1954, 26 U.S.C. 501 as now existing or hereafter amended. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.020).]

5.30.040 Dance hall license—Application.

A. The person desiring to conduct, operate or maintain a public dance hall on a yearly or six-month basis shall be responsible for obtaining a public dance hall license from the city clerk.

B. Renewal applications for a public dance hall license (yearly or six-month) shall be made in writing on forms provided by the city clerk at least 14 days prior to the expiration date of the existing license.

C. Each applicant for a license shall complete an application form prepared by the city clerk which shall include the following information:

1. The name and address of the applicant;
2. If the applicant is a corporation or a partnership, the names and addresses of the officers or directors thereof;

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3. The name and address of the owner or owners of the premises upon which the dance hall is located;

4. The name of the business under which the activity is to be conducted;

5. A declaration by the applicant or, if the applicant is a corporation or a partnership, the officers, directors, or partners, of any conviction within the past five years from the date of application of any of the crimes; and

6. Any other information the city clerk may require to aid in the implementation and enforcement of this chapter. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.030).]

5.30.050 Dance permit—Application.

A. The person desiring to conduct, operate or maintain a one-night public dance, whether on premises licensed as a public dance hall or not, is responsible for obtaining a one-night public dance permit from the city clerk, at least 14 days prior to the date the dance is to be held, for each such one-night public dance.

B. Each applicant shall be issued a permit upon completion of an application form which includes:

1. Name of organization holding dance;

2. Location of dance;

3. Approval of the City of Kenmore fire marshal. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.040).]

5.30.060 Dance hall license—Investigation.

Upon the filing of an application for a public dance hall license, the city clerk shall refer the same to the Kenmore police department for investigation of the statements contained in such application. A written report containing the results of the police department investigation shall be furnished to the city clerk if requested. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.060).]

5.30.070 Dance or dance hall—Prerequisites to license or permit issuance.

Applicants must comply with the building, zoning, planning and fire codes of the City of Kenmore and with any rules or regulations set forth by the State of Washington Liquor Control Board. A written report that the applicant has complied with these codes and regulations shall be furnished to the city clerk before a license or permit under this chapter is issued. Applicants must submit, for any dance or dance hall where the expected attendance will exceed 1,000 people based on past experience or the statement of the applicant, such information as deemed appropriate by the Kenmore police department to insure adequate

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traffic control and crowd protection policing either arranged through private security agencies or has been contracted for with the police department. A written notice that the applicant has complied with the requirement shall be issued by the city clerk before a dance or dance hall permit or license is issued; provided, that permits or licenses issued prior to the effective date of the ordinance codified herein shall entitle the holder of such permit or license a period of 30 days, following the effective date to comply with the traffic control and crowd protection requirement; provided, further, that if the applicant should contract for traffic control and crowd protection policing with the City of Kenmore, in no event should the sum agreed upon in payment for such policing be less than the actual expense incurred by the City in providing that service. Such consideration shall be calculated for personnel resources on the hourly rate for overtime under the current collective bargaining agreement, plus that percentage then being paid for fringe benefits, and all sums paid under such contract shall be paid in accordance with procedures specified by the finance director. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.060).]

5.30.080 Hours of operation.

No public dance or public dance hall shall be conducted, operated or maintained after the hour of 2:30 a.m.; provided, that public dancing and those activities related to public dancing licensed by the City of Kenmore such as live musical entertainment shall be permitted until 4:00 a.m. in establishments which have a class "H" liquor license. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.070).]

5.30.090 Public youth dance — Hours of operation — Age restrictions — Penalty.

A. No person or entity conducting a public youth dance or maintaining a public youth dance hall shall allow persons under the age of 16 years to enter or remain on the premises without that person's parent or legal guardian present.

B. No person or entity conducting or operating a public youth dance or public youth dance hall shall allow persons under the age of 18 years to enter or remain on the premises after 2:00 a.m. without that person's parent or legal guardian present.

C. Every person who knowingly or recklessly shall allow a person to enter or remain at a public youth dance in violation of this section shall be guilty of a misdemeanor. It is the sole responsibility of the person or entity conducting and/or operating a public youth dance to require identification showing the age of each person admitted.

D. Any person under the age of 18 years who shall by affirmative misrepresentation of age obtain admission to or permission to remain in any public youth dance in violation of this chapter shall be guilty of a misdemeanor. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.072).]

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~~5.30.100 Public youth dance—Readmission fee.~~

~~No person or entity conducting or operating a public youth dance or public youth dance hall shall permit any person, other than an employee, to leave the dance or dance hall and return unless that person pays a readmission fee equal to, or greater than, one-half the original price of admission. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.074).]~~

~~5.30.110 Fees.~~

~~The fees for conducting, operating or maintaining a public dance hall or public dance are fixed as follows:~~

- ~~A. Public dance hall or public dance license (one-year), imposed by the city council by resolution;~~
- ~~B. Public dance hall or public dance license (six-month), imposed by the city council by resolution;~~
- ~~C. One-night public dance permit, imposed by the city council by resolution. [Ord. 02-0139 § 1; Ord. 98-0017 §§ 1, 2 (KCC 6.20.080).]~~

~~5.30.120 Denial of license or permit.~~

~~A. The city clerk may deny a license or permit if the applicant or, if the applicant is a corporation or partnership, the applicant's officers, directors or partners or any agent thereof, have:~~

- ~~1. Committed any act which, if committed by a licensee or permittee, would be grounds for the suspension or revocation of a license or permit;~~
- ~~2. Been convicted within the last five years of:~~
 - ~~a. A felony involving a crime of violence as defined in RCW 9A.01.010, or a felony under Chapter 9A.50 RCW, or any felony or misdemeanor under Chapters 9A.44, 9A.64, or 9A.88 RCW;~~
 - ~~b. Contributing to the dependency or delinquency of a minor; or~~
 - ~~c. Assault on a juvenile;~~
- ~~3. Been refused a license or permit or had a license or permit revoked under the provisions of this chapter; provided, however, that any applicant denied a license or permit may reapply after six months if the basis for such denial no longer exists;~~
- ~~4. Committed any act for which a license is required under the provisions of this chapter;~~

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5. Failed to comply with the building, zoning, planning or fire codes of the City of Kenmore, or any rules or regulations set forth by the State of Washington Liquor Control Board; or

6. Knowingly made any false statement in the applicant's application.

B. The city clerk may deny a license if he determines that the conduct, operation or maintenance of a public dance hall or public dance will disturb the peace and quiet of the neighborhood in which the same is located. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.090).]

5.30.130 Suspension or revocation of license or permit.

The city clerk may suspend or revoke a license or permit if he determines that the licensee or permittee or any of the licensee's or permittee's officers, directors or partners or agents have:

A. Intentionally failed to disclose any material fact in the application for a license or permit, or a renewal of a license or permit;

B. Knowingly made any false statement or given any false information in connection with an application for a license or permit or a renewal of a license or permit or a renewal of a license or permit;

C. Failed to remove or attempt to remove from the dance premises any person who appears to be under the influence of or affected by the use of alcohol and/or drugs or whose conduct reasonably appears to pose a physical danger to the safety of others present;

D. Committed any act which is a ground for denial of a license or a permit; or

E. Violated any of the provisions of this chapter. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.100).]

5.30.140 Transferability of license or permit.

Any license or permit issued under the provisions of this chapter shall apply to a single location only and shall not be transferable to other locations; provided, however, that the license or permit may be transferred to another person provided such person satisfies the license or permit requirements contained herein and pays a transfer fee in an amount imposed by the city council by resolution. [Ord. 02-0139 § 1; Ord. 98-0017 §§ 1, 2 (KCC 6.20.110).]

5.30.150 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any person who violates any provision of any business license ordinance shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation to be directly assessed by the city manager. The city manager, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the

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~~penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed, and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.120).]~~

~~5.30.160 Additional enforcement.~~

~~Notwithstanding the existence or use of any other remedy, the city manager may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.130).]~~

~~5.30.170 Severability.~~

~~Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity of the remaining portion of this chapter. [Ord. 98-0017 §§ 1, 2 (KCC 6.20.150).]~~

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**Chapter 5.35
GO KART TRACKS**

(Repealed)

Sections:

- ~~5.35.010—Definitions.~~
- ~~5.35.020—License required—Fee.~~
- ~~5.35.030—Renewal of license, registration or permit—Late penalty.~~
- ~~5.35.040—Compliance with zoning code.~~
- ~~5.35.050—Liability insurance.~~
- ~~5.35.060—Safety standards and specifications.~~
- ~~5.35.070—Reporting accidents and keeping records.~~
- ~~5.35.080—Telephone facilities.~~
- ~~5.35.090—First aid kit.~~
- ~~5.35.100—Maintenance and inspections.~~
- ~~5.35.110—Safety helmets.~~
- ~~5.35.120—Penalty for violations.~~
- ~~5.35.130—Civil penalty.~~
- ~~5.35.140—Additional enforcement.~~

~~5.35.010 Definitions:~~

~~For the purposes of this chapter, the words and phrases used herein shall have the following meanings:~~

~~A. "Go kart track" means any place of business, whether open to the public or operated on a private or semi-private basis, whether or not operated for a profit, wherein the use of karts for rides, rentals, demonstrations and/or similar activities reasonably connected therewith and to only include herein those operations commonly referred to as concession tracks.~~

~~B. "Go kart" means a miniature self-propelled vehicle designed to be independently operated by the person riding therein and shall include the terms "cart," "go cart" or "kart." [Ord. 98-0017 §§ 1, 2 (KCC 6.28.010).]~~

~~5.35.020 License required—Fee.~~

~~It is unlawful to open, operate, conduct, manage, maintain or control, or in any way be connected with the opening, operation, conduct, management, maintenance or control, of any go kart track without a valid and subsisting license for each location. The license shall be known as a go kart track license, and the~~

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fee for the license is fixed in the sum imposed by the city council by resolution. [Ord. 02-0139 § 1; Ord. 98-0017 §§ 1, 2 (KCC 6.28.020).]

5.35.030 Renewal of license, registration or permit — Late penalty.

A late penalty shall be charged on all applications for renewal of a license, registration or permit received later than 10 working days after the expiration date of such license, registration or permit as set forth in the respective resolution or ordinance establishing the expiration date of such license, registration or permit. The amount of such penalty is fixed as follows:

A. For a license, registration or permit requiring a fee of \$0.50 or more, but less than \$50.00, 20 percent of the required fee;

B. For a license, registration or permit requiring a fee of \$50.00 or more, but less than \$1,000, 10 percent of the required fee;

C. For a license, registration or permit requiring a fee of \$1,000 or more, five percent of the required fee. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.030).]

5.35.040 Compliance with zoning code.

It is unlawful for any person to manage, conduct, carry on or own the business of operating a go-kart track unless the location and establishment of such business complies with the provisions of this code or is deemed a nonconforming use thereunder. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.040).]

5.35.050 Liability insurance.

It is unlawful for any person to manage, conduct, carry on or own the business of operating a go-kart track unless such person shall, prior to the conducting, managing, carrying on or establishing of the go-kart track, obtain and maintain during the period of operation of the business public liability insurance covering personal injuries, property damage and medical expenses in limits of at least \$100,000 per occurrence, with at least \$50,000 for any one person per occurrence and with at least \$500.00 of medical expense coverage per person per occurrence. Compliance with this section shall be deemed complete when the person furnishes the city clerk with proof of insurance coverage by a reputable insurance carrier and with an endorsement to the effect that the city clerk shall receive at least 10 days' notice prior to the cancellation of such insurance coverage of any such person governed by this chapter. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.050).]

5.35.060 Safety standards and specifications.

All go-kart tracks regulated under the provisions of this chapter shall comply with the following standards and specifications intended to protect and safeguard participants and spectators at tracks:

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- A. The track surface shall be a smooth, durable, nonskid material such as asphalt or concrete. Gravel or crushed rock surfaces are prohibited.
- B. Length of tracks shall not exceed one-quarter mile.
- C. Length of straight-of-ways on tracks shall not exceed 300 feet.
- D. Width of track shall be not less than 16 feet on straight-of-ways and not less than 20 feet on turns.
- E. Track may have bank or super only on turns.
- F. Grades on track shall not exceed five percent.
- G. Track must join with track edge smoothly to avoid a "curb" or drop-off hazard.
- H. All tracks must have a safety apron not less than 15 feet wide between track and fence on straight-of-ways and not less than 25 feet wide between the track and fences on curves.
- I. All tracks shall be inside a fenced enclosure. The fencing shall be chain link of No. 9 hogwire not less than four feet in height, with fence posts not less than five and one-half feet in height and placed at intervals of not more than 15 feet.
- J. Ingress and egress to the track or pit areas shall be through gates which are kept closed at all times when not in use. Responsible supervision of participants and spectators in the gate and pit areas must be provided at all times during which the go kart track is in operation.
- K. Baled hay, rubber tires or similar protective materials shall be placed on all turns or curves at track and shall also be placed in a continuous ring two feet inside chain link fence around the entire track.
- L. Track pits shall have separate entrance and exit lanes, shall have the same surface as track, shall be fenced off from spectator areas and a responsible employee shall supervise all pit activities.
- M. No person under the age of eight years shall be allowed to drive any go kart at speeds in excess of 12 miles per hour. No person under the age of 11 years shall be allowed to drive any go kart at any speed in excess of 20 miles per hour. Under no circumstances shall go karts subject to the provisions hereof be operated at speeds in excess of 20 miles per hour, except in connection with sales demonstrations of single racing or competition go kart at any one time.

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N. Spectator areas must be separated from track and pit areas by fencing as herein provided. Bleachers or grandstands, if any, shall be substantially constructed and properly maintained. Attendants must be on duty to control spectators and parking.

O. All attendants at a go kart track must at all times be under the direct control of a responsible supervisor not less than 18 years of age during all periods of track use. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.060).]

5.35.070 Reporting accidents and keeping records.

The manager or owner shall report in writing all accidents of a nature to cause unconsciousness, broken or sprained extremities or bones, removal, breaking or loosening of teeth, hemorrhaging or lacerations which may require suturing or eye injuries to the city clerk. Records thereof shall be maintained on the premises of all medical aid or care administered. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.070).]

5.35.080 Telephone facilities.

Track owners shall provide a telephone facility available for the use of himself and all track employees. Telephone numbers of emergency medical services of facilities should be conspicuously posted thereon. Such telephone shall be available for emergency use at all times during which the track is in operation. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.080).]

5.35.090 First aid kit.

A first aid kit approved by the city clerk shall be maintained and be readily available on the track premises for emergency treatment or care of a minor nature at all times during which the track is in operation. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.090).]

5.35.100 Maintenance and inspections.

Go kart tracks and all related facilities and equipment shall be maintained in good repair. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.100).]

5.35.110 Safety helmets.

All persons riding go karts during periods of track operation shall be required to wear standard safety or "crash" helmets. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.110).]

5.35.120 Penalty for violations.

Any person violating, or failing to comply with, any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as prescribed by law. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.120).]

5.35.130 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any person who violates any provision of any business license ordinance shall be subject to a civil penalty in an amount not to

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~~exceed \$250.00 per violation to be directly assessed by the city manager. The city manager, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.130).]~~

~~5.35.140 Additional enforcement.~~

~~Notwithstanding the existence or use of any other remedy, the city manager may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted. [Ord. 98-0017 §§ 1, 2 (KCC 6.28.140).]~~

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**Chapter 5.40
JUNK DEALERS**

Sections:

- 5.40.010 License required.
- 5.40.020 Definitions.
- 5.40.030 ~~License fee. *Repealed*~~
- 5.40.040 Application for license.
- 5.40.050 ~~Renewal of license, registration or permit—Late penalty. *Repealed*~~
- 5.40.060 Personal property tax return.
- 5.40.070 Vehicle markings.
- 5.40.080 Records required.
- 5.40.090 Compliance required.
- 5.40.100 Records and articles to be available for inspection.
- 5.40.110 Seller to give true name.
- 5.40.120 Certain transactions prohibited.
- 5.40.130 No sale within 10 days.
- 5.40.140 Police officers to be admitted.
- 5.40.150 Violation a misdemeanor.
- 5.40.160 Civil penalty.
- 5.40.170 Additional enforcement.

5.40.010 License required.

A. ~~Junk Shop License.~~ It is unlawful for any *person*, firm, or corporation to operate or maintain a *junk shop* without first obtaining a *"junk shop license/license"* pursuant to the provisions of this chapter.

B. ~~Junk Wagon License.~~ It is unlawful for any *person*, firm, or corporation to operate or maintain a *junk wagon* without first obtaining and displaying a valid ~~and subsisting~~ *"junk wagon license/license"* pursuant to the provisions of this chapter.

5.40.020 Definitions.

A. "Junk," as used in this chapter, shall be deemed to include and mean old rope, old iron, brass, copper, tin, lead, rags, empty bottles, paper, bagging, scrap metals of all kinds, and other worn out or discarded material.

B. "Junk shop," as used in this chapter, means any storeroom, building, yard, enclosure, or other place where *junk* is sold, bought, received or stored; provided, however, that such definition shall not apply where *junk* is:

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1. Purchased from a source other than a *junk wagon* and is in prepared form by baling, pressing, or otherwise, or in carload lots, or cut to specifications; or

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2. Purchased from a licensed *junk shop*; or

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3. Purchased directly from the industrial producer of scrap metals, by the consumer there; or

4. Purchased by automobile wreckers where automobiles are purchased and a *certificate of title* furnished.

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C. "Junk wagon," as used in this chapter, means any vehicle used for the purpose of going from house to house, place to place, buying or offering to buy, picking up or collecting *junk* and transporting such *junk*, wholly or in part, within the *cityCity of Kenmore*, regardless of where the *junk* has been bought or collected, other than a vehicle used by a regularly licensed *junk shop* in disposition of its own *junk*.

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5.40.030 License fee.

A. *Junk Shop License.* The fee for a *junk shop license* shall be imposed by the city council by resolution payable on the thirty-first of December preceding the year for which the *license* is issued. Fees becoming due for less than one year shall be prorated on a quarterly basis.

B. *Junk Wagon License Fee.* The fee for a *junk wagon license* shall be imposed by the city council by resolution payable on the thirty-first of December preceding the year for which the *license* is issued. Fees becoming due for less than one year shall be prorated on a quarterly basis.

5.40.040 Application for license.

All applications for issuance or renewal of a *junk shop licensejunk shop license* or a *junk wagon licensejunk wagon license* shall be made to and be filed with the *city managercity clerk* on forms furnished for such purpose. This application shall state the true name of the applicant, who shall not be less than 18 years of age, the names of all persons having a financial, proprietary, or other interest in such *junk shopjunk shop* together with such other information as the *city managercity clerk* deems appropriate. The application shall then be referred to the *cityKenmore* police department for investigation, report and recommendation. If from the reports and other information available, the *city managercity clerk* deems the applicant to be a fit and proper person, the *city managercity clerk* shall issue or renew the *licenselicense* applied for.

5.40.050 Renewal of license, registration or permit — Late penalty.

A late penalty shall be charged on all applications for renewal of a license, registration or permit received later than 10 working days after the expiration date of such license, registration or permit as set forth in

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~~the respective resolution or ordinance establishing the expiration date of such license, registration or permit. The amount of such penalty is fixed as follows:~~

~~A. For a license, registration or permit requiring a fee of \$0.50 or more but less than \$50.00, 20 percent of the required fee;~~

~~B. For a license, registration or permit requiring a fee of \$50.00 or more, but less than \$1,000, 10 percent of the required fee;~~

~~C. For a license, registration or permit requiring a fee of \$1,000 or more, five percent of the required fee.~~

5.40.060 Personal property tax return.

No renewal *license* shall issue to any *junk shop* owner or to any *junk wagon* owner until the applicant shall show that he has made a return to the King County assessor of the property in his possession or ownership and the value thereof for tax assessment purposes and has paid the tax due.

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5.40.070 Vehicle markings.

Every *licensee* operating a *junk wagon* shall obtain from the *city clerk city manager* two *junk wagon* vehicle *licenses* for each vehicle to be so used. On each *license* there shall be stamped or painted the word "junk" and the *license* number of the *licensee*. Each *license* shall be securely fastened to each outer side of the vehicle. In addition, such vehicle shall also be prominently and plainly marked with the name of the *licensee* and the street address of his place of business. The vehicle marking license shall remain the property of the *cityCity of Kenmore*, and it is unlawful for any *person* other than the *licensee* to whom the plates were issued to possess or use any such plate. Plates possessed or used in violation of the provisions of this section, or used after the *junk wagon license* has expired or been suspended, or if by a dealer after his *junk shop license* has expired or been suspended, shall be taken up by any police officer or the *city clerk city manager*.

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5.40.080 Records required.

Every *person* who maintains or operates a *junk shop* and/or a *junk wagon* shall provide and keep a book in which shall be plainly written in ink, in the English language, at the time of every purchase, a description of the article purchased, the printed name, signature, age, street and house number, the general description of the dress, complexion, color and appearance of the *person* from whom such purchase is made, and the day and hour of such purchase. All such records shall be present at the *junk shop* or *junk wagon*, and shall be at all times available for inspection by officers of the *cityKenmore* police department.

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5.40.090 Compliance required.

It is unlawful for any *junk shop* or *junk wagon* owner, or any clerk, agent, or employee of such *junk shop* or *junk wagon*, to fail, neglect, or refuse to make any material entry in the records required herein, or to make any false entry therein, or to obliterate, destroy, or remove from his place of business such record within five years from the date of transaction.

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5.40.100 Records and articles to be available for inspection.

All books and other records of any *junk shop* operator or any *junk wagon* operator relating to the purchase or receipt of any goods, wares, merchandise, *junk*, or other articles or things of value, shall be at all times open for inspection by the *cityKenmore* police department; and all *junk wagon* operators shall at any time allow inspection of their *license* and *junk* or other articles contained in the *junk wagon*.

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5.40.110 Seller to give true name.

Anyone who sells or otherwise gives any property to a *junk shop* operator or *junk wagon* operator shall sign the records required to be kept by such operator with his true name and shall include his correct residence address.

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5.40.120 Certain transactions prohibited.

A. It is unlawful for any *person* to purchase any *junk* from any *person* under the age of 18 years without receiving from such *person* a written authority from the *person* owning such *junk* authorizing him to sell the same. Such written authority shall be placed on file by the *person* receiving such *junk*. It is unlawful for any *junk shop* operator or *junk wagon* operator to receive any article or thing known by him to be stolen, any article or thing from any *person* who is under 18 years of age, intoxicated, an habitual drunkard, addicted to the use of drugs, or from any *person* who is known to be a thief or a receiver of stolen property, or from any *person* who he has reason to suspect or believe to be such.

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B. It is unlawful for any keeper of a *junk shop*, or *person* operating a *junk wagon* to purchase any *junk* between the hours of 7:00 p.m. and 7:00 a.m. of the following day.

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5.40.130 No sale within 10 days.

No *junk shop* operator or *junk wagon* operator shall sell or otherwise dispose of any article received or purchased by him, or remove or *permit* the same to be removed from his place of business within 10 days after receipt of the articles have been reported to the *cityKenmore* police department as herein provided, except when the articles have been inspected by a regular member of the police department, and he has been authorized to dispose of such goods within a lesser period of time.

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5.40.140 Police officers to be admitted.

It is unlawful for any keeper of a *junk shop* or a *junk wagon* to refuse to allow any police officer to inspect his place of business or *junk wagon*, and all articles of *junk* kept therein, or to conceal or hide away any article or thing bought or received by him.

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5.40.150 Violation a misdemeanor.

Any violation of the provisions of this chapter shall constitute a misdemeanor.

5.40.160 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any *person* who violates any provision of ~~this chapter~~*any business license ordinance* shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation to be directly assessed by the *city manager*. The *city manager*, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title.

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5.40.170 Additional enforcement.

Notwithstanding the existence or use of any other remedy, the *city manager* may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted.

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Chapter 5.43 MARIJUANA BUSINESSES

Sections:

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- 5.43.020 License required.
- 5.43.030 Liquor Control Board license – Condition precedent.
- 5.43.040 Marijuana business license.
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- 5.43.090 License suspension and revocation.
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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~~ *marijuana license*, as set forth in WAC ~~314-55-035~~.

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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.

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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 this 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 city manager, on a form provided by the city clerk city manager 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*:

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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

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Control Board~~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~~Liquor Control Board~~ for the Liquor Control Board~~Liquor Control Board~~ license application, together with the results of the Liquor Control Board's~~Liquor Control Board's~~ criminal history check on the *applicant*.

6. A copy of the operating plan submitted to the Liquor Control Board~~Liquor Control Board~~ in connection with the license application, and any amendments thereto, and the license issued by the Liquor Control Board~~Liquor Control Board~~.

7. Authorization for the city~~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~~applicant~~ and applicant~~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~~applicant's~~ submittal of all information and documents described above, including identification of "none" where that is the correct response, and the applicant's~~applicant's~~ verification that the application is complete. The city clerk~~city manager~~ 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 KMC 5.43.050) must be paid at the time of filing an application.

D. All applications shall be signed by the applicant~~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~~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~~city manager~~, no later than 21 days following such acquisition. The notice required shall include the information required for the original marijuana business license~~marijuana business license~~ application.

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F. The marijuana business license~~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~~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.

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

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H. Upon receipt of the complete application and fee, the city manager~~clerk~~ shall provide copies to the appropriate City departments for their investigation and review to determine compliance of the proposed marijuana business~~marijuana-business~~ with the laws and regulations which each department administers. Each department shall, within 20 days of the date of such application, inspect the application and premises and shall make a written report to the city clerk~~city manager~~ 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~~marijuana-business~~ is not in conformance with the requirements of this chapter or other law in effect in the city~~City~~.

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A recommendation for denial shall cite the specific reason therefor, including reference to applicable laws. The city clerk~~city manager~~ shall not issue a marijuana business license~~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~~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.

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I. A marijuana business license~~marijuana-business-license~~ shall be issued by the city clerk~~city manager~~ within 30 days of the filing of a complete license application and the application fee, unless the city clerk~~city manager~~ determines that the applicant~~applicant~~ has failed to meet any of the requirements of this chapter, that the applicant~~applicant~~ has failed to provide any information required under this section, or that the applicant~~applicant~~ has made a false, misleading or fraudulent statement of material fact on the application. The city clerk~~city manager~~ shall grant an extension of time in which to provide all information required for a complete license~~license~~ application upon the request of the applicant~~applicant~~. If the city manager~~city clerk~~ finds that the applicant~~applicant~~ has failed to meet any of the requirements for issuance

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of a ~~marijuana business license~~~~marijuana-business-license~~, the ~~city manager~~~~clerk~~ shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the ~~city manager~~~~city-clerk~~ fails to issue or deny the license within 30 days of the date of filing of a complete application and the application fee, the ~~applicant~~~~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 manager~~~~city-clerk~~ that the ~~license~~~~license~~ has been denied, but in no event may the ~~city manager~~~~city-clerk~~ extend the application review time for more than an additional 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~~~~marijuana-business-license~~, the City shall not issue a ~~marijuana business license~~~~marijuana-business-license~~ to that ~~applicant~~~~applicant~~, or the ~~applicant's~~~~applicant's~~ successor on the ~~marijuana license~~~~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 manager~~~~city-clerk~~ in refusing to issue or renew any ~~license~~~~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 manager~~~~city-clerk~~ within 21 days of notice of the refusal to issue or renew. The decision of the ~~city manager~~~~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.

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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.

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5.43.080 License term, assignment and renewals.

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

B. Application for renewal of ~~marijuana business licenses~~~~marijuana-business-licenses~~ issued hereunder shall be made to the ~~city manager~~~~city-clerk~~ no later than 30 days prior to the expiration of ~~marijuana~~

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business licenses~~marijuana-business licenses~~. The renewal license~~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 manager~~city clerk~~ an additional charge, computed as a percentage of the marijuana business license~~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 manager~~city clerk~~ shall renew a license~~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 manager~~city clerk~~ may deny a renewal where the city manager~~city clerk~~ is aware of facts that would disqualify the applicant~~applicant~~ from being issued a marijuana business license~~marijuana-business license~~.

5.43.090 License suspension and revocation.

A. The city manager~~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~~marijuana-business license~~ issued under the provisions of this chapter:

1. Where the license~~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~~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

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applicable ordinances, statutes or regulations are found, the ~~license~~ shall be suspended for a period of 30 days upon the first such violation, 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 manager~~ shall provide at least 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 manager~~ shall be stayed during the pendency of any appeal except as provided in subsection D of this section.

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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.

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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 KMC Title 18.

5.43.110 Hours of operation for marijuana retailers.

A ~~marijuana retailer~~ may be open for business only between the hours of 8:00 a.m. and 10:00 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.

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Chapter 5.45

MASSAGE ~~PARLORS~~ BUSINESSES, PRACTITIONERS AND PUBLIC BATHHOUSES

Sections:

- 5.45.010 Definitions.
- 5.45.020 General provisions.
- 5.45.030 License required.
- 5.45.040 License application and issuance.
- 5.45.050 Standards for denial of license.
- 5.45.060 ~~Expiration of license — Due date for license fees. *Repealed*~~
- 5.45.070 ~~License fees. *Repealed*~~
- 5.45.080 Requirements for licensing/operation.
- 5.45.090 Transfer of licenses and change of location.
- 5.45.100 Safety and sanitation.
- 5.45.110 Standards of conduct.
- 5.45.120 Standards for suspension or revocation of license.
- 5.45.130 Violation — Penalties.
- 5.45.140 ~~Severability. *Repealed*~~

5.45.010 Definitions.

For the purpose of this chapter, the following terms, words and phrases shall have the following meanings:

- A. "Massage business" means the operation of a business where massages are given.
- B. "Public bathhouse" means any place where baths or facilities for baths of any kind whatever are given or furnished and the term shall include but not be limited to: Finnish baths; Russian baths; sauna baths; Swedish baths; Turkish baths; hot tubs; baths by hot air, steam, vapor, water or electric cabinet; provided, that such term shall not include ordinary tub or shower baths where attendant is not required.
- C. "Massage practitioner" means a *person* engaged in the practice of massage.
- D. "Genitals" includes genitals, pubic area, anus, or perineum of any *person*, or the vulva or breasts of a female.

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E. "Massage" means the treatment of a human body by another by the external manipulation or pressure of soft tissue. Massage includes rubbing, kneading, touching, stroking, or tapping by manual means as they relate to massage with or without the aids of superficial heat, cold, water, lubricants, or salts.

5.45.020 General provisions.

Unless otherwise specified, the general licensing provisions shall apply to this license section.

5.45.030 License required.

A. Massage Business ~~or~~ Public Bathhouse. It is unlawful to conduct, operate or maintain a massage business or public bathhouse unless such establishment or premises is licensed as hereinafter provided.

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B. Massage Practitioner. It is unlawful for any person to give a massage without a massage practitioner license.

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C. Exemptions. This chapter shall not apply to:

1. An individual giving massage in their home to members of their immediate family;

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2. Physicians, surgeons, chiropractors, osteopaths, acupuncturists, or physical therapists who are duly licensed or certified to practice their respective professions in the State of Washington;

3. Persons practicing massage under the direct supervision of physicians, surgeons, chiropractors, osteopaths, or physical therapists duly licensed by the State of Washington. Direct supervision shall mean that the massage is given on the premises of or in the presence of such physicians, surgeons, chiropractors, osteopaths, or physical therapists;

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4. Nurses who are registered as such under the laws of the State of Washington and who act under the direction and control of a duly licensed physician;

5. Persons authorized by the laws of this State as barbers and cosmetologists; provided, that such massage as is practiced is within their authorized scope of practice;

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6. Massage practiced at the athletic department of any institution maintained by the public funds of the State, or any of its political divisions; or

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7. Massage practiced at the athletic department of any school or college accredited by the Northwest Association of Secondary and Higher Schools.

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5.45.040 License application and issuance.

A. Message Business ~~or~~ Public Bathhouse. All applications for a ~~message business~~ ~~or~~ ~~public bathhouse~~ shall be submitted in the name of the ~~person~~ or entity proposing to conduct such ~~message business~~ ~~or~~ ~~public bathhouse~~ on the business premises and shall be signed by such ~~person~~ or his agent and notarized or certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the ~~city manager~~ ~~city clerk~~, which shall require the following information:

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1. The name, home address, home telephone number, date and place of birth, and Social Security number of applicant if the applicant is an individual;

2. The business name, address and telephone number of the establishment;

3. The names, addresses, telephone numbers, and Social Security numbers of any partners, corporate officers, shareholders who own 10 percent or more of the business, or other ~~persons~~ who have a substantial interest or management responsibilities in connection with the business, specifying the interest or management responsibility of each. For the purpose of this subsection "substantial interest" shall mean ownership of 10 percent or more of the business, or any other kind of contribution to the business of the same or greater size;

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4. Terms of any loans, leases, secured transactions and repayments therefor relating to the business.

B. Message Practitioner. All applications for a ~~message practitioner's license~~ shall be signed by the applicant and notarized or certified to be true under penalty of perjury. All applications shall be submitted on a form supplied by the ~~city manager~~ ~~city clerk~~, which shall require, at a minimum, the following information:

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1. The applicant's name, home address, home telephone number, date and place of birth;

2. A letter from the owner of the business indicating intent to employ the applicant; and

3. Written proof that the applicant is 18 years of age or older. Written proof shall mean the following:

a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

b. An identification card issued by the State of Washington which bears the applicant's photograph and date of birth; or

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c. A passport.

C. Applications will be submitted to a background check in accordance with the procedures of the cityKenmore police department.

D. A license shall be issued within four weeks of receipt; provided, that there are no grounds to deny the license pursuant to the sections of this code.

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5.45.050 Standards for denial of license.

A. Message Business or Public Bathhouse License.

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1. The city managercity clerk shall deny any message business/ or public bathhouse license applied for under the provisions of this chapter if the city managerhe determines that the applicant has:

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a. Made any material misstatement in the application for a license;

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b. Proposed a place of business or an establishment to be licensed which would not comply with all applicable requirements of this code including but not limited to the zoning, building, health or fire codes of the cityCity of Kenmore; or

c. Not complied with the operating requirements set out in KMC 5.45.080.

2. The city managercity clerk may deny any message business/ or public bathhouse license applied for under the provisions of this chapter if the city managerhe determines that the applicant has, within three years prior to the date of application:

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a. Had any convictions or bail forfeitures which have a direct connection with the licensed activity including, but not limited to, theft, controlled substances, prostitution, promoting or permitting prostitution, sexual offenses, consumer fraud, or obscenity; or

b. Had a message business/bathhouse license denied or revoked by the citythis City or any other jurisdiction.

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B. Massage Practitioner License.

1. The city managercity clerk shall deny any massage practitioner license if the city managerhe determines that the applicant/licensee has:

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a. Made any material misstatement in the application for a license; or

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b. Not complied with the operating requirements set out in KMC 5.45.080.

2. The city manager/city clerk may deny any massage practitioner's license if the city manager/he determines that the applicant/licensee has:

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a. Had any convictions or bail forfeitures which have a direct connection with the licensed activity including, but not limited to, theft, controlled substances, prostitution, sexual offenses, consumer fraud or obscenity, within three years prior to the date of application; or

b. Had a massage practitioner license revoked or suspended by the city/City or any other jurisdiction within one year prior to the date of application.

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C. Effect of License Denial. If any applicant has this or her license denied, a license may not be granted within three years from the date of such denial provided such denial was based on a conviction classified as a felony. All other convictions of this chapter will preclude the issuance of a license under this chapter for a period of at least one year from the date of such denial. All applicants must comply with all application procedures pursuant to this chapter.

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5.45.060 Expiration of license — Due date for license fees.

Every license issued or renewed pursuant to this chapter shall expire on the thirtieth of November. All license fees are payable to the finance director at least four weeks prior to the opening of any massage business or public bathhouse, or the performance of massage in any massage business or public bathhouse.

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5.45.070 License fees.

The following fees are applicable to the licensing of massage businesses, public bathhouses and massage practitioners in the City of Kenmore as required in this chapter:

A. Massage business, imposed by the city council by resolution;

B. Public bathhouse, imposed by the city council by resolution;

C. Massage practitioner, imposed by the city council by resolution;

D. Late Penalty. A late penalty shall be charged on all applications for renewal of a license received later than 10 working days after the expiration date of such license. The amount of such penalty is fixed as follows:

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1. Massage business, \$15.00;

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2.-Public bathhouse, \$15.00;

3.-Massage practitioner, \$5.00.

5.45.080 Requirements for licensing/operation.

A. Massage Business ~~or~~ Public Bathhouse. The ~~city manager~~~~city clerk~~ shall refer applications to the ~~Seattle-King County health department~~ and the Northshore fire department with a request to inspect the premises or proposed premises as to its sanitary and safety conditions and to submit a written report thereon; provided, however, that an application for a ~~massage business~~ conducted in the applicant's home shall not be referred to the Northshore fire department. All ~~licensees~~~~licensees~~ shall:

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1. Comply with the applicable safety and sanitation requirements of KMC ~~5.45.100~~;

2. Keep business receipts showing the date of service(s) given, the type of service(s) rendered and the name and ~~license~~ number of the employee rendering the service(s). These business receipts shall be retained for a period of three years after the date of the service(s), and shall be open to inspection by the ~~city~~~~Kenmore~~ police department;

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3. Allow any police officer, the ~~city manager~~~~city clerk~~, or a representative from the Seattle-King County health department or the Northshore fire department entry to the premises during the hours the ~~massage business or public bathhouse~~ is open for business, upon presentation of proper identification, for purposes of inspecting the premises;

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4. Provide that all doors in such premises, excluding doors in office and storage rooms, unless such doors provide access to service areas, are so equipped that they may not be fastened shut so as to prevent reasonable access by such authorities who announce their authority to enter prior to inspection of such premises;

5. Comply with the applicable standards of conduct requirements set out in KMC ~~5.45.110~~;

6. Comply with the applicable provisions of the ~~city~~~~City of Kenmore~~ building, fire and zoning codes;

7. Submit proof of a current Washington State ~~massage business~~ license;

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8. Shall post in a prominent place a list of all services offered with a brief description of what the service entails along with the costs for such services. All business transactions with customers must be conducted in accordance with said posted list; and

9. Shall not distribute or consume liquor and/or controlled substances on licensed premises.

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B. Massage Practitioner. All applicants for a *massage practitioner's license* or *license* renewal shall:

1. Be at least 18 years of age;
2. Submit to a background check in accordance with the procedures of the Kenmore police department;
3. Submit proof of a current Washington State *massage* license.

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5.45.090 Transfer of licenses and change of location.

A. No *massage business* or *public bathhouse license* issued under this chapter shall be transferable from one *person* to another. Upon the sale or transfer of any substantial interest in a *massage business* or *public bathhouse*, the *license* therefor shall be null and void. A new application shall be made by any *person* desiring to operate or maintain the establishment and shall include a release of interest statement from the previous *licensee* and/or a signed lease or rental agreement for the establishment.

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B. The *massage practitioner license*, when issued, shall be valid only for the *massage* establishment listed on the *license*; provided, however, if the practitioner provides *massage* solely in the client's home, the *license* will so note and will be valid for such purpose. Before commencing work as a *massage practitioner* for a new employer, a *massage practitioner* shall submit a letter from the new employer indicating intent to employ the applicant and must have his or her *license* amended by the *city manager/city clerk* for a fee of \$2.00.

5.45.100 Safety and sanitation.

Health and sanitary requirements may include, but are not necessarily limited to, the following:

A. Each room or enclosure where *massage* services are performed on patrons shall be provided with adequate lighting in accordance with the *city* building code, and in addition, at least one artificial light of not less than 40 watts shall be provided in each room or enclosure where services are performed on patrons and shall be in operation when such services are performed.

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B. The premises shall have equipment for disinfecting and cleaning nondisposable instruments and materials used in administering *massage* services. Such materials and instruments shall be cleaned after each use.

C. Hot and cold running water shall be provided at all times.

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D. Closed cabinets shall be provided and used for the storage of all equipment, supplies and clean linens. All used disposable materials and soiled linens and towels shall be kept in covered containers or cabinets, which containers or cabinets shall be kept separate from clean storage cabinets.

E. Clean linen and towels shall be provided for each *massage* patron. No common use of towels or linens shall be permitted.

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F. All *massage* tables, bathtubs, shower stalls, sauna baths, steam or bath areas and all floors shall have surfaces which may be readily cleaned.

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G. Oils, creams, lotions or other preparations used in administering massages shall be kept in clean containers or cabinets.

H. Shower and/or bathtub, dressing, locker and toilet facilities shall be provided upon request for all patrons served at any given time. Upon the request of a patron, the *licensee* shall provide the patron with facilities to lock or secure personal property. Male and female patrons shall not simultaneously use common shower and/or bathtub, dressing, toilet and *massage* room facilities.

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I. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use.

J. Each *massage practitioner* shall wash his or her hands in hot running water using soap or disinfectant before and after administering a *massage* to each patron.

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K. No *person* shall consume food or beverages in *massage* work areas.

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L. Animals, except for *trained dog guides or service animals* ~~seeing-eye dogs~~, shall not be permitted in *massage* establishments.

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M. A *person* suffering from infectious or contagious disease(s) shall not be treated by any licensed *massage business* or *public bathhouse* or *massage practitioner*. A *massage practitioner* who is suffering from infectious or contagious disease(s) shall not administer *massage* services.

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N. All *massage* establishments shall continuously comply with all applicable building, fire or health ordinances and regulations.

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5.45.110 Standards of conduct.

A. The following standards of conduct/operation must be adhered to by the owner, proprietor, manager or person in charge of any *massage business* or *public bathhouse*:

1. Any person who is employed to give a *massage* in such establishment must be at least 18 years of age and be validly licensed as a *massage practitioner*;

2. At all times during the hours held open for business, and/or during the presence of patrons, at least one validly licensed *massage practitioner* must be on the premises. *Public bathhouses* must have a manager or supervisor on the premises at all times during the hours held open for business and/or during the presence of patrons;

3. Any person who is employed by such establishment must present documentation that he or she has attained the age of 18 years when an inspection pursuant to this chapter is conducted. Any of the following shall be accepted as documentation of age:

- a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
- b. An identification card issued by the State of Washington which bears the applicant's photograph and date of birth; or
- c. A passport.

Any violation of this section shall be grounds for revocation or suspension of the *license*.

B. It shall be unlawful for any employee or agent or any *massage business* or *public bathhouse* to:

1. Intentionally touch or manipulate the *genitals* of a *massage* patron;
2. Masturbate or fondle the *genital* area of a *massage* patron;
3. Administer a *massage* to a *massage* patron unless such *massage practitioner's* sexual and genital body parts are completely covered by opaque clothing; or
4. Administer a *massage* to *massage* patrons in the same room or enclosure at the same time.

Any violation of this section shall be grounds for revocation or suspension of the *license*.

5.45.120 Standards for suspension or revocation of license.

A. *Massage Business or Public Bathhouse License*.

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1. The city manager/city clerk shall revoke or suspend a massage business/ or public bathhouse license if the city manager/he determines that the licensee has:

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a. Failed to comply with the applicable safety and sanitation requirements set out in KMC 5.45.100; or

b. Failed to comply with the applicable standards of conduct set out in KMC 5.45.110; or

c. Failed to comply with the applicable building, fire and zoning code provisions; or

d. Employed persons who, within a period of one year, have been convicted of prostitution or consumer fraud stemming from activities conducted on the licensed premises, or who have been arrested for such offenses and which lead to such convictions; provided, that there are two or more such convictions within one year, or two or more arrests leading to such convictions within one year.

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2. The city manager/city clerk may revoke or suspend a massage business/ or public bathhouse license if the city manager/he determines that the licensee has:

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a. Failed to comply with any of the operating requirements set out in KMC 5.45.080; or

b. Had any convictions or bail forfeitures which have a direct connection with the licensed activity, including, but not limited to, consumer fraud, theft, controlled substances, prostitution, permitting or promoting prostitution, sexual offenses, or obscenity; or

c. Failed to comply with or done anything which constitutes a basis for denying a license.

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3. If the city manager/city clerk determines during an inspection that the condition of any massage business needs correction, a written notice of violation shall be issued to the supervisor, manager, owner or person in charge specifying such violations. Those same violations shall be remedied immediately or by a later date determined by the city manager/city clerk. Failure to comply with any written notice of violation by the city manager/city clerk to make corrections may result in suspension or revocation of the massage business.

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B. Massage Practitioner License

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1. The city manager/city clerk shall suspend or revoke any massage practitioner's license if the city manager/he determines that the licensee has:

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a. Failed to comply with the applicable standards of conduct set out in this chapter.

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2. The city manager/city clerk may suspend or revoke any massage practitioner's license if the city manager/he determines that the licensee has:

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a. Failed to comply with any of the operating requirements set out in this chapter; or

b. Had any convictions or bail forfeitures which have a direct connection with the licensed activity including, but not limited to, theft, controlled substances, prostitution, consumer fraud, obscenity, or sexual offenses;

c. Failed to comply with or done anything which constitutes a basis for denying a license.

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C. Effect of License Revocation. If any applicant under this chapter has this or her license revoked, a license shall not be granted under this chapter for a period of at least one year from the date of such revocation.

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D. The city manager/city clerk may suspend a license for no more than six months.

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5.45.130 Violation – Penalties.

A. Misdemeanor. Every person as principal, agent or otherwise, failing, neglecting or refusing to comply with any provision of this chapter, or violating the same, shall be guilty of a misdemeanor. Each day of such failure, neglect or refusal to comply with the provision of this chapter or the violation of same shall constitute a separate offense hereunder.

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B. Civil Penalty. In addition to or as an alternative to any other penalty provided herein or by law, any person who violates any provision or any business license ordinance shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation to be directly assessed by the city manager. The city manager, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title.

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C. Additional Enforcement. Notwithstanding the existence or use of any other remedy, the city manager may seek legal or equitable relief to enjoin any acts or practices which constitute a violation of any business license ordinance or other regulations herein adopted.

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5.45.140 Severability.

~~Should any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or application thereof to any *person or circumstance*~~

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ATTACHMENT #1

**Chapter 5.50
OUTDOOR MUSICAL ENTERTAINMENTS**

(Repealed)

Sections:

- 5.50.010—Permit required.**
- 5.50.020—Application for permit.**
- 5.50.030—Permit fee.**
- 5.50.040—Submission of plans for approval—Approving agencies.**
- 5.50.050—Conditions for permit issuance.**
- 5.50.060—Hours of operation.**
- 5.50.070—Renewal of license, registration or permit—Late penalty.**
- 5.50.080—Violation—Misdemeanor.**
- 5.50.090—Failure to comply.**
- 5.50.100—Civil penalty.**
- 5.50.110—Additional enforcement.**

5.50.010 Permit required.

It is unlawful for any person, persons, corporation, organization, landowner, or lessor to allow, encourage, organize, promote, conduct, permit or cause to be advertised an entertainment, amusement, or assembly of persons wherein the primary purpose will be the presentation of outdoor, live or recorded musical entertainment which the person, persons, or corporation, organization, landowner or lessor believes or has reason to believe will attract 250 or more persons and where a charge or contribution is required for admission unless a valid City permit has been obtained for the operation of the assembly; provided, however, that the assembly may be advertised by the sponsors and/or organizers thereof after application for such permit has been made. [Ord. 98-0017 §§ 1, 2 (KCC 6.52.010).]

5.50.020 Application for permit.

Written application for outdoor musical amusements, entertainments or assembly permits shall be made to the city clerk 40 or more days prior to the date upon which such assembly is scheduled to be held. Written notice of approval or disapproval of the application shall be given to the applicant no later than 15 days after the application has been filed. Permits shall not be denied providing the conditions enumerated are met by the applicant; provided, that no permit may be granted to anyone who has been convicted of a felony or a crime involving moral turpitude; provided further, that each application shall be accompanied by the fingerprints and a three-by-five-inch photograph of each and every person having any proprietary

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interest in the licensed activity. The city clerk shall be empowered to obtain adequate photographs of all persons having any proprietary interest. [Ord. 98-0017 §§ 1, 2 (KCC 6.52.020).]

5.50.030 Permit fee.

The basic fee required shall be imposed by the city council by resolution. [Ord. 02-0139 § 1; Ord. 98-0017 §§ 1, 2 (KCC 6.52.030).]

5.50.040 Submission of plans for approval—Approving agencies.

Whenever approval by a governmental agency other than the city clerk is required hereunder, the applicant for such approval shall be required to cooperate fully with such agencies to insure that full review of the proposals may be accomplished by the agencies within a 15-day time limit. When any type of physical facility is required or subject to approval hereunder, preliminary approval may be granted based upon specific plans proposed and submitted by the applicant. All such facilities shall be in existence five or more days before the event for which an application is submitted and shall be subject to inspection by the approving agencies or departments. Should the actual facility or construction fail to meet the standards approved in the proposed plans such preliminary approval may be withdrawn and any and all permits granted subject to such approval may be withdrawn. [Ord. 98-0017 §§ 1, 2 (KCC 6.52.040).]

5.50.050 Conditions for permit issuance.

A. Location. No permit for an outdoor musical assembly shall be granted unless the assembly is to be held in those areas of the City of Kenmore which have been zoned for parks and recreation; provided, however, that a permit may be granted for other areas if a zoning variance has been granted in advance by the executive department for such location.

B. Sanitary Facilities. No permit shall be granted unless the applicants obtain the written approval of the Seattle-King County health department indicating that the applicants for the permit have complied with the health requirements of the department for like or similar facilities. The approval shall indicate the type and adequacy of water supply to be provided, the type and adequacy of toilet, waste collection and washing facilities to be provided, and if there is to be food served on the premises the type and adequacy of food preparation and food service facilities to be provided.

C. Fire Prevention Standards. No permit shall be granted hereunder unless the applicant has shown that the City of Kenmore fire marshal has approved fire protection devices and equipment available at such assembly. Fire prevention standards shall be as set out in Chapter 15.10 KMC.

D. Cash Bond and Indemnification. No permit shall be issued hereunder unless the applicant has on deposit with the finance director a cash bond in the amount as set out below to save and protect the

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streets, pavements, bridges, road signs and other property in the City from any and all damage that may be caused by vehicles, employees, or participants in such outdoor musical assembly and to be used, if necessary, to restore the ground where such assembly is held to a sanitary condition and pay all charges and losses of the City for damages to the streets, pavements, bridges and other property. Further, any extraordinary law enforcement costs incurred by the City which are the result of the activity shall be met by the cash bond. The amount of such bond shall be determined as follows:

1. For gatherings of zero to 10,000 persons, a \$5,000 cash bond;
2. For gatherings of 10,000 to 20,000 persons, a cash bond of \$7,500;
3. For gatherings of 20,000 to 30,000 persons, a cash bond of \$10,000; and
4. A cash bond shall be raised in increments of \$2,500 for each additional 10,000 persons expected.

The deposit or its balance to be returned when the city clerk certifies to the finance director that no damage has been done or that the cost of making the above mentioned repairs was less than the cash bond amount and that the balance thereof should be returned. Further, the sponsors shall be required to furnish evidence of a liability insurance policy providing for a minimum of \$100,000 bodily injury coverage per person, \$300,000 bodily injury coverage per occurrence and \$100,000 property damage coverage, naming the City of Kenmore as an additional insured.

E. Public Safety. No permit shall be granted hereunder unless the applicant obtained the written approval of the Kenmore police department indicating that the following conditions have been complied with by the applicant:

1. That adequate traffic control and crowd protection policing have been contracted for or otherwise provided by the applicant;
2. That traffic control and crowd control personnel shall be licensed merchant patrolmen or named persons meeting the department's requirements for becoming merchant patrolmen;
3. That there shall be provided one traffic control person for each 400 persons expected or reasonably to be expected to be in attendance at any time during the event;
4. Further that there shall be provided one crowd control person for each 400 persons expected or reasonably expected to be in attendance at any time during the event; provided, that if at any time during the event the size of the crowd exceeds by 20 percent the number of persons represented

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by the sponsors to be expected to be in attendance the Kenmore police department shall have the discretion to require the sponsor to limit further admissions.

Any person with more than a 10 percent proprietary interest in the event shall be required to be in attendance at the activity and shall be responsible for ensuring that no person shall be allowed to remain on the premises if the person is violating State or county laws. Any such person having a duty to remove law violators who willfully fails to do so shall be deemed to be an aider or abettor of such violation.

F. ~~Parking Facilities.~~ Application for a permit hereunder shall be accompanied by a scale drawing showing adequate parking facilities have been made available within or adjacent to the location for which the permit is requested. Such parking facilities shall provide parking space for one vehicle for every four persons expected or reasonably to be expected. Adequate ingress and egress shall be provided to or from such parking area to facilitate the movement of any vehicle at any time to or from the parking area; provided, that if any nonadjacent parking facilities be approved, shuttle buses shall be used to transport the public to the event on a no-charge basis. [Ord. 98-0017 §§ 1, 2 (KCC 6.52.060).]

5.50.060 ~~Hours of operation.~~

No outdoor musical assembly shall be conducted during the hours of 12:01 a.m. and 9:00 a.m.; provided, that no license shall be issued for more than one 48-hour period ending at midnight. The participants shall be required to have cleared the licensed area and its immediate environs no later than 1:00 a.m. of each day of the licensed event. [Ord. 98-0017 §§ 1, 2 (KCC 6.52.060).]

5.50.070 ~~Renewal of license, registration or permit — Late penalty.~~

A late penalty shall be charged on all applications for renewal of a license, registration or permit received later than 10 working days after the expiration date of such license, registration or permit as set forth in the respective resolution or ordinance establishing the expiration date of such license, registration or permit. The amount of such penalty is fixed as follows:

A. For a license, registration or permit requiring a fee of \$0.50 or more, but less than \$50.00, 20 percent of the required fee;

B. For a license, registration or permit requiring a fee of \$50.00 or more, but less than \$1,000, 10 percent of the required fee;

C. For a license, registration or permit requiring a fee of \$1,000 or more, five percent of the required fee. [Ord. 98-0017 §§ 1, 2 (KCC 6.52.070).]

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~~5.50.080 Violation—Misdemeanor.~~

~~Any person who violates or fails to comply with any provision of this chapter, who, having obtained a permit hereunder, willfully fails to continue to comply with the terms and conditions hereunder, or who counsels, aids or abets such a violation or failure to comply is guilty of a misdemeanor. [Ord. 98-0017 §§ 1, 2 (KCC 6.52.080).]~~

~~5.50.090 Failure to comply.~~

~~Compliance with the terms and conditions of this chapter constitutes the minimum health, sanitation and safety provisions and failure to comply with the terms and conditions constitutes a public nuisance and the sponsors of the event shall be subject to all criminal and civil remedies as such. [Ord. 98-0017 §§ 1, 2 (KCC 6.52.090).]~~

~~5.50.100 Civil penalty.~~

~~In addition to or as an alternative to any other penalty provided herein or by law, any person who violates any provision of any business license ordinance shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation to be directly assessed by the city manager. The city manager, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title. [Ord. 98-0017 §§ 1, 2 (KCC 6.52.100).]~~

~~5.50.110 Additional enforcement.~~

~~Notwithstanding the existence or use of any other remedy, the city manager may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted. [Ord. 98-0017 §§ 1, 2 (KCC 6.52.110).]~~

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Chapter 5.55
PAWNBROKERS

Sections:

- 5.55.010 License required.
- 5.55.020 Pawnbroker and pawnshop defined.
- 5.55.030 License fee. *Repealed*
- 5.55.040 Application for license.
- 5.55.050 Personal property tax return.
- 5.55.060 Limitation on licensing.
- 5.55.070 Renewal of license, registration or permit – Late penalty. *Repealed*
- 5.55.075 Fixed place of business required.
- 5.55.080 Records required.
- 5.55.090 Compliance required.
- 5.55.100 Report to police.
- 5.55.105 Notification of lost or stolen property.
- 5.55.110 Records and articles to be available for inspection.
- 5.55.120 Seller or consignee to give true name and address.
- 5.55.130 Authorized rate of interest – Penalty for violation.
- 5.55.140 Prima facie evidence of violation.
- 5.55.150 Period of redemption.
- 5.55.160 Certain transactions prohibited.
- 5.55.170 Pawnshop to be closed during certain hours.
- 5.55.180 Violation – Misdemeanor.
- 5.55.190 Civil penalty.
- 5.55.200 Additional enforcement.

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5.55.010 License required.

It is unlawful for any *person*, firm, or corporation to engage in the business of pawnbroker, or to conduct a pawnshop without first obtaining a "pawnbroker's license" pursuant to the provisions of this chapter.

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5.55.020 Pawnbroker and pawnshop defined.

A. The term "pawnbroker," as used in this chapter, means and includes every *person* who takes or receives by way of pledge, pawn, or exchange, goods, wares, merchandise, or any kind of personal property as security for the repayment of any money loaned thereon, or who loans money on deposit of personal property, or who makes a public display of any sign indicating that he has money to loan on personal property on deposit or pledge.

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B. The term "pawnshop" means and includes every place at which the business of *pawnbroker* is being carried on.

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5.55.030 License fee.

The fee for such *license* shall be imposed by the city council by resolution, payable on the thirty-first of December preceding the year for which the *license* is issued. Fees becoming due for less than one year shall be prorated on a quarterly basis.

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5.55.040 Application for license.

All applications for issuance or renewal of a *pawnbroker's license* shall be made to and be filed with the *city manager/city clerk* on forms furnished for such purpose. This application shall state the true name of the applicant, who shall not be less than 18 years of age, the names of all *persons* having a financial, proprietary, or other interest in such *pawnshop*, together with such other information as the *city manager/city clerk* deems appropriate. The application shall then be referred to the *city/Kenmore* police department for investigation, report and recommendation. If, from the reports and other information available, the *city manager/city clerk* deems the applicant and all *persons* having an interest in such *pawnshop* to be fit and proper, the *city manager/city clerk* shall issue or renew the *license*.

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5.55.050 Personal property tax return.

No renewal *license* shall issue to any *pawnbroker* until the applicant shall show that he has made a return to the King County assessor of the property in his possession or ownership and the value thereof for tax assessment purposes and has paid the tax due.

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5.55.060 Limitation on licensing.

No *pawnbroker's license* shall be issued which would increase the number of holders of such licenses to more than one for every 15,000 of population, according to the last preceding federal census; provided, that this population limitation shall not operate to prohibit the licensing of any *pawnbroker* duly licensed prior to the enactment of this chapter, if such *pawnbroker* is otherwise duly qualified.

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5.55.070 Renewal of license, registration or permit—Late penalty.

A late penalty shall be charged on all applications for renewal of a *license, registration or permit* received later than 10 working days after the expiration date of such *license, registration or permit* as set forth in the respective resolution or ordinance establishing the expiration date of such *license, registration or permit*. The amount of such penalty is fixed as follows:

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A. For a *license, registration or permit* requiring a fee of \$0.50 or more, but less than \$50.00, 20 percent of the required fee;

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B. For a ~~license, registration or permit~~ requiring a fee of \$50.00 or more, but less than \$1,000, 10 percent of the required fee;

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C. For a ~~license, registration or permit~~ requiring a fee of \$1,000 or more, five percent of the required fee.

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5.55.075 Fixed place of business required.

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No ~~person~~ shall operate as a ~~pawnbroker~~ unless the ~~person~~ maintains a fixed place of business within the ~~City~~city.

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5.55.080 Records required.

Every ~~pawnbroker~~ shall maintain at the place of business a record in which shall be legibly written in the English language at the time of each transaction the following information:

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A. The date of the transaction;

B. The name of the ~~person~~ conducting the transaction and making the entries required herein;

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C. The printed name, signature, date of birth, sex, height, weight, race, street and house number, telephone number, general description of the dress, and color of hair of the ~~person~~ with whom the transaction was made;

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D. The name and street and house number of the owner of the property bought or received in pledge;

E. The street and house number of the place from which the property bought or received in pledge was last removed;

F. A complete description of the property bought or received in pledge, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color or stone or stones, and in the case of firearms, the caliber, barrel length, type of action, and whether it is a pistol, rifle, or shotgun;

G. The price paid or the amount loaned;

H. The number of any pawn tickets issued therefor;

I. The type and identifying number of identification used by the ~~person~~ with whom the transaction was made, which shall consist of a valid driver's license or identification card issued by any state or two pieces of identification issued by a governmental agency, one of which shall be descriptive of the ~~person~~ identified; provided, that at all times, one piece of current government-issued picture identification is required; and

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J. The nature of the transaction, a number identifying the transaction, the store identification as designated by the cityKenmore police department, or the name and address of the business and the name of the person or employee conducting the transaction.

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5.55.090 Compliance required.

It is unlawful for any pawnbroker or any clerk, agent, or employee of such pawnbroker to fail, neglect, or refuse to make any material entry in this record, as required by this chapter, or to make any false entry therein, or to obliterate, destroy, or remove from his place of business such record within five years from date of transaction.

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5.55.100 Report to police.

A. Upon request, every pawnbroker shall furnish or mail within 24 hours to the cityKenmore police department a full, true and correct transcript of the record of all transactions conducted on the preceding day. At the close of every business week, every pawnbroker shall furnish or mail to the cityKenmore police department a full, true and correct transcript of the record of all transactions conducted during the preceding week. These transactions shall be recorded on such forms as may be provided and in such format as may be required by the chief of police. This information may be transmitted electronically, by facsimile transmission, or by modem or similar device, or by delivery of computer disk subject to the requirements of, and approval by, the chief of police.

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B. It is also the duty of any pawnbroker having good cause to believe any property in his possession has been previously lost or stolen to report such fact to the cityKenmore police department immediately, together with the name of the owner, if known, and the date when and name of the person from whom the same was received by such pawnbroker.

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5.55.105 Notification of lost or stolen property.

Following notification from a law enforcement agency that an item of property has been reported as lost or stolen, the pawnbroker shall hold that property intact and safe from alteration, damage or commingling.

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The pawnbroker shall place an identifying tag or other suitable identification on property so held. Property

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held shall not be released for 120 days from the date of police notification unless released by written consent of the applicable law enforcement agency or by court order; provided, that in cases where the applicable law enforcement agency has placed a verbal hold on an item, that agency must then give written notice within 10 business days. If such written notice is not received within that period of time, then the hold order will cease. The pawnbroker shall give a 20-day written notice before the expiration of the 120-day holding period to the applicable law enforcement agency about the lost or stolen property. If notice is not given within the required 20-day period, then the hold on the property shall continue for an additional 120 days. The applicable law enforcement agency may renew the holding period for additional

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120-day periods as necessary. After the receipt of notification from a *pawnbroker*, if an additional holding period is required, the applicable law enforcement agency shall give the *pawnbroker* written notice prior to the expiration of the existing hold order. A law enforcement agency shall not place on hold any item of personal property unless that agency reasonably suspects that the item of personal property is a lost or stolen item. Any hold that is placed on an item will be removed as soon as practicable after the item on hold is determined not to be lost or stolen.

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5.55.110 Records and articles to be available for inspection.

All books and other records of any *pawnbroker* relating to purchase, pledge, exchange, order or receipt of any goods, wares, merchandise, or other articles or things of value shall at all times be open for inspection by the Kenmore police department, and all articles or things received, purchased or left in pledge with the *pawnbroker* shall at all times be open to a like inspection.

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5.55.120 Seller or consignee to give true name and address.

Anyone who pledges, sells, or consigns any property to or with a *pawnbroker* shall sign the records required to be kept by such *pawnbroker* with his true name and shall include his correct residence address.

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5.55.130 Authorized rate of interest – Penalty for violation.

All *pawnbrokers* are authorized to charge and receive interest and other fees in accordance with RCW 19.60.060 or any successor statute.

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5.55.140 Prima facie evidence of violation.

The fact of loaning money upon or purchasing goods from any of the classes enumerated in KMC 5.55.130 shall be prima facie evidence of an intent on the part of such *pawnbroker*, his agent or employee, to violate this chapter.

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5.55.150 Period of redemption.

No *pawnbroker* shall sell any property held by him as security for a loan until both the term of the loan and a grace period of a minimum of 60 days have expired.

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5.55.160 Certain transactions prohibited.

A. It is unlawful for any *pawnbroker* or the clerk or employee of a *pawnbroker* to receive in pledge, or purchase, any article or thing known to him to be stolen, any article or thing from any *person* who is under 18 years of age, intoxicated, addicted to the use of drugs, or from any *person* who is known to be a thief, or a receiver of stolen property, or from any *person* who he has reason to suspect or believe to be such.

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B. It is unlawful for any *pawnbroker* or the clerk or employee of a *pawnbroker* to refuse to return property which has been identified as stolen or pawned without authorization to any *person* the *pawnbroker* or the

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clerk or employee of a *pawnbroker* knows to be the rightful owner, or to charge a fee for the return of such property to the rightful owner.

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1. "Identified as stolen or pawned without authorization" shall mean any property which has been reported by the rightful owner to legitimate authority as lost or stolen and has been released by written consent of the applicable law enforcement agency or by court order.

2. "The rightful owner," unless otherwise proven, shall be considered to be the *person* having possession of the property prior to the theft or removal without authorization.

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5.55.170 Pawnshop to be closed during certain hours.

It is unlawful for any *pawnbroker* to conduct or carry on the business of the *pawnbroker*, in whole or in part, directly or indirectly, or to open or keep open his *pawnshop* for the transaction of any business whatsoever therein, between the hours of 8:00 p.m. and 7:00 a.m., except that from December 1st to December 24th of each year, when *pawnbrokers* may remain open until 10:00 p.m.

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5.55.180 Violation – Misdemeanor.

Any violation of the provisions of this chapter constitutes a misdemeanor.

5.55.190 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any *person* who violates any provision of any business license ordinance shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation to be directly assessed by the *city manager*. The *city manager*, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed, and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title.

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5.55.200 Additional enforcement.

Notwithstanding the existence or use of any other remedy, the *city manager* may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted.

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Chapter 5.60
SECONDHAND DEALERS

Sections:

- 5.60.010 License required.
- 5.60.020 Secondhand dealer and secondhand goods defined.
- 5.60.030 License fee, *Repealed*
- 5.60.040 Application for a license.
- 5.60.050 Renewal of license, registration or permit—Late penalty, *Repealed*
- 5.60.060 Personal property tax return.
- 5.60.070 More than one shop – Change of location.
- 5.60.080 Records required.
- 5.60.090 Compliance required.
- 5.60.100 Transcript to be furnished.
- 5.60.110 Records and articles to be available for inspection.
- 5.60.120 Seller to give true name and address.
- 5.60.130 No sale within 10 days.
- 5.60.140 Certain transactions prohibited.
- 5.60.150 Violation a misdemeanor.
- 5.60.160 Civil penalty.
- 5.60.170 Additional enforcement.

5.60.010 License required.

It is unlawful for any *person*, firm or corporation to engage in the business of buying, selling, or trading in *secondhand goods* in the cityCity of Kenmore without first obtaining a "secondhand dealer's *license*" pursuant to the provisions of this chapter.

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5.60.020 Secondhand dealer and secondhand goods defined.

A. The term "secondhand dealer," as used in this chapter, means and includes every *person* who as a business engages in the purchase, sale, trade, barter, auction, sale on consignment, or otherwise exchanges *secondhand goods*, or who keeps a store, shop, room or other place where *secondhand goods* of any kind or description are bought, sold, traded, bartered, pledged, pawned, auctioned, sold on consignment, or otherwise exchanged, including dealers in used or remanufactured automobile tires or parts; provided, however, that this term shall not apply to those *persons* engaged in the business of selling used or secondhand motor vehicles or boats.

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B. The term "secondhand goods" when used in this chapter means and includes any and all used, remanufactured, or secondhand goods purchased or kept for sale by a dealer in secondhand goods; provided, however, such term shall not be construed to include junk or used or secondhand motor vehicles or boats.

5.60.030 License fee.

The fee for such ~~license~~ shall be imposed by the city council by resolution, payable on the thirty-first of December preceding the year for which the ~~license~~ is issued. Fees becoming due for less than one year shall be prorated on a quarterly basis.

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5.60.040 Application for a license.

All applications for issuance or renewal of ~~secondhand dealer's license~~ shall be made to and be filed with the ~~city manager~~ city clerk on forms furnished for such purpose. This application shall state the true name of the applicant, who shall not be less than 18 years of age, the names of all ~~persons~~ having a financial, proprietary, or other interest in such ~~secondhand dealer's~~ shop, together with such other information as the ~~city manager~~ city clerk deems appropriate. The application shall then be referred to the ~~city~~ Kenmore police department for investigation, report, and recommendation. If, from the reports and other information available, the ~~license division~~ department deems the applicant to be a fit and proper ~~person~~, the ~~city manager~~ city clerk shall issue or renew the ~~license~~ applied for.

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5.60.050 Renewal of license, registration or permit — Late penalty.

A late penalty shall be charged on all applications for renewal of a ~~license, registration or permit~~ received later than 10 working days after the expiration date of such ~~license, registration or permit~~ as set forth in the respective resolution or ordinance establishing the expiration date of such ~~license, registration or permit~~. The amount of such penalty is fixed as follows:

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A. For a ~~license, registration or permit~~ requiring a fee of \$0.50 or more, but less than \$50.00, 20 percent of the required fee;

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B. For a ~~license, registration or permit~~ requiring a fee of \$50.00 or more, but less than \$1,000, 10 percent of the required fee;

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C. For a ~~license, registration or permit~~ requiring a fee of \$1,000 or more, five percent of the required fee.

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5.60.060 Personal property tax return.

No renewal ~~license~~ shall issue to any secondhand dealer until the applicant shows that he has made a return to the King County assessor of the property in his possession or ownership and the value thereof for tax assessment purposes and has paid the tax due.

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5.60.070 More than one shop – Change of location.

Any person having more than one place of business where secondhand goods are bought, sold, traded, bartered, or exchanged shall be required to procure a separate license for each and every such place of business. A secondhand dealer's license shall not be transferable from one person to another, but the licensee may have his license transferred to a new location by the city manager/city clerk, and the change of address shall be noted on the license, together with the date on which the change was made.

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5.60.080 Records required.

Every secondhand dealer shall maintain at his place of business a book in which he shall at the time of purchase of any secondhand goods enter, in the English language, written in ink, the following information:

A. The date of the transaction;

B. The name of the person conducting the transaction and making the entries required herein;

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C. The printed name, signature, age, and address of the person with whom the transaction is had;

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D. The address of the place from which the property was last removed;

E. An accurate description of the property bought, which shall include the name of the maker of such property or manufacturer thereof and the serial number, if the article has such marks on it, or any other inscriptive or identifying marks; provided, that when the article received is furniture or the contents of any house or room, actually inspected on the premises where the sale is made, the general description of the property shall be sufficient; and

F. An itemized statement of the price or amount paid for the property purchased.

5.60.090 Compliance required.

It is unlawful for any secondhand dealer, or any clerk, agent, or employee of such secondhand dealer, to fail, neglect, or refuse to make any material entry in this record, as required by this chapter, or to make any false entry therein, or to obliterate, destroy, or remove from his place of business such record within five years from the date of the transaction.

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5.60.100 Transcript to be furnished.

A. ~~Transcript Required. It is the duty of every~~Every secondhand dealer shall deliver to the city~~Kenmore~~ police department at the close of every business week a full, true, and correct transcript of the record of all transactions occurring during the preceding week. Secondhand goods taken on consignment or trade-in will be recorded in the same manner as goods purchased outright.

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B. ~~Duty to Report. It is also the duty of any~~ *secondhand dealer* having good cause to believe any property in ~~the dealer's~~ his possession has been previously lost or stolen ~~to~~ shall report such act to the ~~city~~ *Kenmore* police department immediately, together with the name of the owner, if known, and the date and name of the *person* from whom the same was received by such *secondhand dealer*.

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5.60.110 Records and articles to be available for inspection.

All books and other records of any *secondhand dealer* relating to purchase or receipt of any goods, wares, merchandise, or other things of value shall at all times be open for inspection by the *city* *Kenmore* police department, and all articles or things received or purchased shall at all times be open to a like inspection.

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5.60.120 Seller to give true name and address.

Anyone who sells or otherwise leaves any property with a *secondhand dealer* shall sign the records required to be kept by such dealer with his true name and shall include his correct residence address.

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5.60.130 No sale within 10 days.

No dealer in *secondhand goods* shall sell or dispose of any article received or purchased by him or permit the same to be removed from his place of business within 10 days after the receipt of such goods has been reported to the *city* *Kenmore* police department as provided herein, except when the goods have been inspected by regular members of the *city* *Kenmore* police department, and they have authorized the *secondhand dealer* to dispose of such goods within a lesser period of time; provided, that consigned property sold at auction need only be held for three days prior to sale.

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5.60.140 Certain transactions prohibited.

A. It is unlawful for any *secondhand dealer*, his clerk or employee to purchase or receive any article or thing known by him to be stolen, any article or thing from a *person* who is under 18 years of age, intoxicated, addicted to the use of drugs, or from any *person* who is known to be a thief, or a receiver of stolen property, or from any *person* who he has reason to suspect or believe to be such.

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B. It is unlawful for any *secondhand dealer*, his clerk or employee to refuse to return property which has been identified as stolen or sold without authorization to any *person* the *secondhand dealer*, his clerk or employee knows to be the rightful owner, or to charge a fee for the return of such property to the rightful owner.

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1. "Identified as stolen or sold without authorization" shall mean any property which has been reported by the rightful owner to legitimate authority as missing or stolen.

2. "The rightful owner," unless otherwise proven, shall be considered to be the *person* having possession of the property prior to the theft or removal without authorization.

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5.60.150 Violation a misdemeanor.

Any violation of the provisions of this chapter shall constitute a misdemeanor.

5.60.160 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any *person* who violates any provision of any business license ordinance shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation to be directly assessed by the *city manager*. The *city manager*, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title.

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5.60.170 Additional enforcement.

Notwithstanding the existence or use of any other remedy, the *city manager* may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted.

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Chapter 5.65
THEATERS

Sections:

5.65.010 License required.

5.65.020 ~~License fee — Term. *Repealed*~~

5.65.030 Transferring of license.

5.65.040 ~~Renewal of license, registration or permit — Late penalty. *Repealed*~~

5.65.050 Application for license.

5.65.060 Penalty — Misdemeanor.

5.65.070 Civil penalty.

5.65.080 Additional enforcement.

5.65.010 License required.

It is unlawful for any *person* to open, operate, conduct, manage, maintain or control any theater which is open to the public and which is located in the City of Kenmore without a valid and subsisting *license* to be known as a "theater *license*."

5.65.020 ~~License fee — Term.~~

~~The fee for a theater *license* shall be imposed by the city council by resolution, commencing May 1st and ending April 30th of each year, payable in advance to the City of Kenmore.~~

5.65.030 Transferring of license.

No *license* issued under the provisions of this chapter shall be transferable or assignable, unless specifically authorized by the *city manager* *city clerk*.

5.65.040 ~~Renewal of license, registration or permit — Late penalty.~~

~~A late penalty shall be charged on all applications for renewal of a *license, registration or permit* received later than 10 working days after the expiration date of such *license, registration or permit* as set forth in the respective resolution or ordinance establishing the expiration date of such *license, registration or permit*. The amount of such penalty is fixed as follows:~~

~~A. For a *license, registration or permit* requiring a fee of \$0.50 or more, but less than \$50.00, 20 percent of the required fee;~~

~~B. For a *license, registration or permit* requiring a fee of \$50.00 or more, but less than \$1,000, 10 percent of the required fee;~~

~~C. For a *license, registration or permit* requiring a fee of \$1,000 or more, five percent of the required fee.~~

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5.65.050 Application for license.

All applications for *licenses* under this chapter shall be made to the *city managercity clerk*.

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5.65.060 Penalty – Misdemeanor.

Any violation or failure to comply with the provisions of this chapter shall constitute a misdemeanor and shall be punishable as such.

5.65.070 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any *person* who violates any provision of any business license ordinance shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation to be directly assessed by the *city manager*. The *city manager*, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title.

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5.65.080 Additional enforcement.

Notwithstanding the existence or use of any other remedy, the *city manager* may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted.

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Chapter 5.70
CHARITABLE SOLICITATIONS

Sections:

- 5.70.010 Definitions.
- 5.70.020 Soliciting for private needs prohibited.
- 5.70.030 Permit – Required – Exemptions.
- 5.70.040 Permit – Application – Contents.
- 5.70.050 Permit – Application – Investigation.
- 5.70.060 Permit – Application – State registration in lieu of.
- 5.70.070 Permit – Issuance.
- 5.70.080 ~~Permit – Fees.~~ Repealed
- 5.70.090 Permit – Term.
- 5.70.100 Credentials.
- 5.70.110 Permit – Expiration – Return.
- 5.70.120 Written receipts required.
- 5.70.130 ~~Renewal of license, registration or permit – Late penalty.~~ Repealed
- 5.70.140 Permit – Suspension or revocation – Notice to Kenmore police department.
- 5.70.150 Books and records of permit holders.
- 5.70.160 Financial report.
- 5.70.170 Religious solicitations – Certificate of registration – Required.
- 5.70.180 Religious solicitations – Certificate of registration – Regulations.
- 5.70.190 Fraudulent misrepresentation and misstatements prohibited.
- 5.70.200 Violation – Penalty.
- 5.70.210 Civil penalty.
- 5.70.220 Additional enforcement.
- 5.70.230 ~~Severability.~~ Repealed

5.70.010 Definitions.

The following words and terms of this chapter, unless a different meaning clearly appears from the context, shall mean as follows:

A. "Charitable" means and includes the words patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported; provided, such term shall not include "religious" and "religion," which terms shall be given their commonly accepted definitions;

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B. "Contributions" means and includes alms, food, clothing, money, credit, subscription, property, financial assistance or other thing of value and including any donations under the guise of a loan of money or property;

C. "Direct gift" means and includes an outright contribution of food, clothing, money, credit, property, financial assistance or other thing of value to be used for a *charitable* or religious purpose and for which the donor receives no consideration or thing of value in return;

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D. "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof;

E. "Promoter" means any *person* who promotes, manages, supervises, organizes or attempts to promote, manage, supervise or organize a campaign of *solicitation*, but shall not include either a bona fide full-time salaried officer or employee of a *charitable* organization whose salary or other compensation is not computed on funds raised or to be raised, or a temporary employee who is employed to contact volunteer workers by telephone but who may not himself solicit contributors directly;

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F. "Sale and benefit affair" means and includes, but is not limited to, athletic or sports event, bazaar, benefit, campaign, circus, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, social gathering, theater or variety show, which the public is requested to patronize or attend or to which the public is requested to make a contribution for any *charitable* or religious purpose connected therewith;

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G. "Solicit" and "solicitation" mean the request within the *Citycity* directly or indirectly of money, credit, property, financial assistance or other thing of value on the plea or representation that such money, credit, property, financial assistance or other thing of value will be used for a *charitable* or religious purpose, and include:

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1. Any oral or written request;
2. The distribution, circulation, mailing, posting or publishing of any handbill, written advertisement or publication;
3. The making of any announcement to the press, by radio or television, by telephone or telegraph, concerning an appeal, assemblage, athletic or sports event, bazaar, benefit, campaign, circus, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, social

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gathering, theater or variety show, which the public is requested to patronize or to which the public is requested to make a contribution for any charitable or religious purpose connected therewith;

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4. The sale of, offer or attempt to sell any advertisement, advertising space, book, card, chance, coupon, device, magazine, membership, subscription, ticket, admission, article or other thing in connection with which any appeal is made for any charitable or religious purpose, or where the name of any charitable or religious organization, association or person is used or referred to in any such appeal or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will go or be donated to any charitable or religious purpose.

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A "solicitation" shall be deemed completed when made, whether or not the person making the same received any contribution or makes any sale referred to in this section. [Ord. 98-0017 §§ 1, 2 (KCC 6-76.010).]

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5.70.020 Soliciting for private needs prohibited.

No person shall solicit contributions for himself in or upon any public street or public place in the city City of Kenmore.

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5.70.030 Permit – Required – Exemptions.

It is unlawful for any person to solicit contributions for any charitable purpose within the city City of Kenmore without a "charitable solicitation permit" issued by the city manager city clerk authorizing such solicitation; provided, however, that the provisions of this section shall not apply to:

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A. Solicitations by any organization operated exclusively for religious or charitable purposes and not operated for the pecuniary profit of any person, if the solicitations by such organization are conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies, meetings or services of any such organization;

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B. Any charitable organization which does not solicit and collect contributions in this city City in excess of \$2,500 in any one-year period all of such fund-raising functions are carried on by persons who are unpaid for their services.

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5.70.040 Permit – Application – Contents.

An application for a charitable solicitation permit shall be made to the city manager city clerk upon forms provided by the city manager him. Such application shall be executed under oath by the applicant, and if a promoter is involved in the solicitation, the promoter he shall likewise execute under oath such application.

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The application shall be submitted to the city manager~~city clerk~~ at least 30 days prior to the time at which the permit applied for shall become effective; provided, however, that the city manager~~city clerk~~ may for good cause shown allow the application to be submitted less than 30 days prior to the effective date of the permit applied for. The application herein required shall contain the following information or, in lieu thereof, a detailed statement of the reason or reasons why such information cannot be furnished:

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A. The name and address or headquarters of the person applying for the permit;

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B. If applicant is not an individual, the names and addresses of the applicant's principal officers and managers, and a copy of the resolution, if any, authorizing such solicitation, certified to as a true and correct copy of the original by the officer having charge of applicant's records;

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C. If some organization other than the applicant is to be the beneficiary of the funds solicited hereunder and if that beneficiary organization's name will be used in the campaign of solicitation, there must be filed with the city manager~~city clerk~~ a statement signed by the board of directors or other governing body of that beneficiary organization, authorizing the use of that organization's name in the solicitation campaign;

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D. The purpose for which such solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts therefrom;

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E. The name and address of the person or persons by whom the receipts of such solicitation shall be disbursed;

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F. The names, addresses and dates of birth of the person or persons who will be in direct charge of conducting the solicitation and the names and dates of birth of all promoters connected or to be connected with the proposed solicitation;

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G. An outline of the method or methods to be used in conducting the solicitation and location of any telephone solicitation headquarters;

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H. The time when such solicitations shall be made, giving the dates for the beginning and ending of such solicitations;

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I. The amount of any wages, fees, commissions, salaries, expenses or emoluments to be expended or paid to any person in connection with such solicitations, and the names and addresses of all such persons;

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J. A financial statement for the last preceding fiscal year of any funds collected for charitable purposes by the applicant, ~~said~~the statement giving the amount of money so raised, together with the cost of

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solicitation, and final distribution of the balance. This financial statement shall be submitted on a uniform reporting form provided by the city manager/city clerk;

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K. A detailed statement of the charitable work being done by the applicant within the city/City of Kenmore;

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L. An itemization of the estimated cost of the solicitation;

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M. A statement that the cost of the solicitation will not exceed 20 percent of the total gross amount to be raised by direct gifts, 55 percent of the total gross amount to be raised by sale and benefit affairs, and that in either case all wages, fees, commissions, salaries and emoluments paid or to be paid to all salesmen, solicitors, collectors, conductors and managers will not exceed 20 percent of the total gross amount collected;

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N. A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement by the city/City of Kenmore or by any department or officer thereof of solicitations made thereunder;

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O. A statement that applicant, and if applicant is not an individual, its principal officers, and any promoter, has read and understands the provisions of this chapter;

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P. Such other information as may be reasonably required by the city manager/city clerk in order for him to determine the character of the applicant and/or promoters and agents and the kind and character of the proposed solicitation.

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If, while any application is pending or during the term of any permit granted thereon, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the city manager/city clerk in writing thereof within 24 hours after such change.

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5.70.050 Permit – Application – Investigation.

The city manager/city clerk shall examine all applications filed and shall make, or cause to be made, such further investigation of the application and the applicant as the city manager/city clerk deems necessary. Upon request by the city manager/city clerk, the applicant shall make available for inspection by the city manager/city clerk, or any person designated as his representative for such purpose, all of the applicant's books, records and papers at any reasonable time before the permit is granted, during the time a permit is in effect, or after a permit has expired.

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5.70.060 Permit – Application – State registration in lieu of.

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KMC 5.70.040 and 5.70.050 shall not apply to any person who has fully complied with the laws of the State of Washington relating to charitable solicitation and has received a valid registration provided:

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A. Such *person* furnishes a sworn statement that State law relating to *charitable solicitation* has been fully complied with and that the State *registration* is current and has not been revoked; and

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B. Such *person* files with the *city manager/city clerk* duplicate copies of all applications for *registration*, correspondence, instruments, documents and papers filed with the appropriate State officer or agency; and

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C. Such *person* pays to the *city manager/city clerk* the appropriate fees; and

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D. Such *person* does not use a method of *solicitation* or a promotional plan in violation of this chapter.

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The *city manager/city clerk* shall issue a *charitable solicitation permit* to any *person* who complies with this section and KMC 5.70.070.

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5.70.070 Permit – Issuance.

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A. The *city manager/city clerk* shall issue the *permit* provided he finds the following facts to exist:

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1. All of the statements made in the application are true;

2. The applicant and the officers of the organization on whose behalf *charitable solicitations* are to be made and all *persons* supervising the *solicitations* and any *promoters* connected therewith shall not, to the knowledge of the applicant and/or *promoter*, have had a record of arrest and conviction with any federal or State law enforcement agency involving misstatement, misrepresentation, deception or fraud;

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3. The control and supervision of the *solicitation* will be under responsible and reliable *persons*;

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4. The applicant (and if not an individual, the officers, agents or *promoters*) has not engaged in any fraudulent transactions or enterprises;

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5. The proposed *solicitation* will be conducted to finance the *charitable* cause described in the application, and not for purposes of private gain;

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6. The cost of raising the funds will not exceed 20 percent of the total gross amount to be raised by *direct gifts*, or 55 percent of the total gross amount to be raised by *sale and benefit affairs*, and that in either case all wages, fees, commissions, salaries or emoluments paid or to be paid to all salesmen, solicitors, collectors, conductors and managers will not exceed 20 percent of the total gross amount collected;

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7. The method or methods for solicitation outlined in the application do not include any of the following methods of solicitation:

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a. Charitable solicitations by children under 14 years of age where the children will be paid for such solicitation or retain a portion of the solicited funds. This prohibition shall not apply where both of the following exist:

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(1) The children are members of the organization for whose benefit the solicitation is made; and

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(2) All funds so solicited, less permissible costs, shall be expended locally and solely for the direct benefit of children in such organization;

b. Delivery by mail or otherwise of any unordered merchandise;

c. Solicitation by means of coin or currency boxes or receptacles except when:

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(1) Each such box or receptacle shall be the responsibility of a bona fide member, agent or solicitor of the soliciting organization; and

(2) Such responsible person shall be required to pick up each such box or receptacle at the end of the solicitation period;

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(3) The use of such boxes and receptacles in the solicitation is expressly authorized by the city manager/city clerk;

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8. The person or organization has tax-exempt status from the government of the United States.

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B. The city manager/city clerk may request the city/kenmore police department to investigate the truth of the statements in the application and all other matters which tend to aid the city manager/city clerk in determining whether to grant the permit. The city/kenmore police department shall report to the city manager/city clerk any reasons he may have for objecting to the granting of a permit.

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C. The city manager/city clerk is authorized to make and enforce rules and regulations, not inconsistent with the provisions of this chapter, and it is unlawful to violate or not to comply with any of the rules and regulations. All of such rules and regulations as promulgated by the city manager/city clerk from time to time shall be reduced to writing and shall be made available to applicants under this chapter.

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5.70.080 Permit – Fees.

A. For charitable solicitation permit where no persons soliciting will be paid for such solicitation or retain a portion of solicited funds, excepting those charitable organizations employing bona fide full-time salaried officers or employees to supervise such solicitation: imposed by the city council by resolution.

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B. For charitable solicitation permit where independent solicitors, promoters or professional fund-raising organizations will be paid or retain a portion of the solicited funds: imposed by the city council by resolution.

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C. For filing appeal: imposed by the city council by resolution.

5.70.090 Permit – Term.

A. All charitable solicitation permits issued under this chapter shall be dated and shall bear the name and address of the person to whom issued and of the organization on whose behalf solicitation may be done and shall be valid for one year from date of issue.

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B. If an annual permit is applied for and denied, the applicant shall be entitled to a public hearing.

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C. Such permits shall not be transferable and shall state that the same is not an endorsement by the cityCity of Kenmore for the purpose of the solicitation or of the person making the same.

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5.70.100 Credentials.

All persons to whom charitable solicitation permits have been issued shall furnish to each of their agents and solicitors credentials approved as to form by the city managercity clerk. Such credentials shall include the permit number, the name and telephone number of the permit holder, the purpose of the solicitation, the signature of the applicant, and the name, address and signature of the solicitor to whom such credentials are issued, and the period of time during which the solicitor is authorized to solicit on behalf of the permit holder. The city managercity clerk may authorize the use of the identification approved by the Director of the Department of Motor Vehicles for the State of Washington for any person or organization validly registered under the charitable solicitation law; provided the above information appears thereon. It is unlawful for any person to solicit under any such charitable solicitation permit without having in his possession the credentials required by this section. The credentials must be shown, upon request, to all persons solicited or to any police officer of the cityCity of Kenmore or agent of the city managercity clerk.

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5.70.110 Permit – Expiration – Return.

Any charitable solicitation permit shall be returned to the city managercity clerk within seven days of its date of expiration.

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5.70.120 Written receipts required.

Any person receiving money or anything having a value of \$1.00 or more from any contributor under a solicitation made pursuant to a charitable solicitation permit shall, upon request, give to the contributor a written receipt signed by the solicitor showing plainly the name and permit number of the person under whose permit the solicitation is conducted, the date and the amount received; provided, however, that this section shall not apply to any contributions collected by means of a closed box or receptacle used in solicitation with the express approval of the city manager/city clerk.

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5.70.130 Renewal of license, registration or permit – Late penalty.

A late penalty shall be charged on all applications for renewal of a license, registration or permit received later than 10 working days after the expiration date of such license, registration or permit as set forth in the respective resolution or ordinance establishing the expiration date of such license, registration or permit. The amount of such penalty is fixed as follows:

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A. For a license, registration or permit requiring a fee of \$0.50 or more, but less than \$50.00, 20 percent of the required fee;

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B. For a license, registration or permit requiring a fee of \$50.00 or more, but less than \$1,000, 10 percent of the required fee;

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C. For a license, registration or permit requiring a fee of \$1,000 or more, five percent of the required fee.

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5.70.140 Permit – Suspension or revocation – Notice to Kenmore police department.

The city/Kenmore police department shall be notified by the city manager/city clerk of the suspension or revocation of any charitable solicitation permit.

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5.70.150 Books and records of permit holders.

Every person to whom a charitable solicitation permit has been issued under this chapter shall maintain a system of accounting whereby all contributions and all disbursements are entered upon the books or records of such person's treasurer or other financial officer. For each solicitation a separate folder containing all vouchers supporting the accounting and containing a record of all contributions and disbursements will be maintained and available for inspection by the city manager/city clerk or his agent for a period of one year from the end of the period of solicitation.

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5.70.160 Financial report.

Within 30 days after completing solicitation, the holder of a charitable solicitation permit shall furnish the finance director/city manager with a detailed financial report and statements showing the amount raised by solicitation under the permit, the amount expended in soliciting, including a detailed account of all wages, fees, commissions and expenses allowed or paid anyone in connection with such solicitation, and

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a statement of the disposition of the balance, and proof of such disposition shall be furnished the finance director on request. All monies or things of value collected under such permit shall be reported. The financial report required by this section shall be submitted on a uniform form provided by the city managerfinance-director. The city managerfinance-director shall keep the report available for inspection by the public; provided, however, the city managerfinance-director may extend the time for filing of the report required by this section for an additional period of 30 days or longer upon proof that the filing of the report within the time specified will work unnecessary hardship on the permit holder. Any charitable organization having a one-year permit shall file with the city managerfinance-director a copy of the independent certified audit of its financial books and records within 10 days after the same has been obtained.

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5.70.170 Religious solicitations – Certificate of registration – Required.

A. No person shall solicit contributions for any religious purpose within the cityCity of Kenmore without a certificate of registration issued by the city managercity-clerk; provided, however, that the provisions of this section shall not apply to solicitations by any religious organization conducted among the members thereof by other officers or members voluntarily and without remuneration for making such solicitations, or to solicitations for or collections of contributions at the regular assemblies, meetings or services of such organizations. Application for a certificate shall be made to the city managercity-clerk upon forms provided by him. Such application shall be sworn to or affirmed, and shall contain the following information, or in lieu thereof, a statement of the reason or reasons why such information cannot be furnished:

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1. The name and local address or headquarters of the person applying for the certificate;

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2. If applicant is not an individual, the names and addresses of the applicant's principal officers and managers and a copy of the resolution, if any, authorizing such solicitation, certified to as a true and correct copy of the original by the officer having charge of applicant's records;

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3. The purpose for which such solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts therefrom;

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4. The name and address of the person or persons by whom the receipts of such solicitation shall be disbursed;

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5. The name and address of the person or persons who will be in direct charge of conducting the solicitation and the names of all promoters connected or to be connected with the proposed solicitation;

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6. An outline of the method to be used in conducting the solicitation;
7. The time when such solicitation shall be made, giving the dates for the beginning and ending of such solicitations;
8. The estimated cost of the solicitation;
9. The amount of any wages, fees, commissions, expenses or emoluments to be expended or paid to any person in connection with such solicitations, and the names and addresses of all such persons;
10. A financial statement for the last preceding fiscal year of any funds solicited by the applicant for religious purposes from the public pursuant to a certificate of registration hereunder, said statements giving the amount of money so raised, together with the cost of raising it, and final distribution thereof;
11. A detailed statement of the religious work being done by the applicant within the cityCity-of Kenmore;
12. A statement to the effect that the certificate will not be used or represented in any way as an endorsement by the cityCity-of Kenmore or by any department or officer thereof.
- B. If, while any application is pending or during the term of any certificate granted thereon, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the city managercity clerk in writing thereof within 24 hours after such change.
- 5.70.180 Religious solicitations – Certificate of registration – Regulations.
- Upon receipt of such application, the city managercity clerk shall issue the applicant a certificate of registration. The certificate shall remain in force and effect for a period of six months after the issuance thereof, and shall be renewed upon the expiration of this period upon the filing of a new application. Certificates of registration shall bear the name and address of the person by whom the solicitation is to be made, the number of the certificate, the date issued and a statement that the certificate does not constitute an endorsement by the cityCity-of Kenmore or by any of its departments or officers of the purpose or the person conducting the solicitation. All persons to whom certificates of registration have been issued shall furnish credentials to their agents and solicitors in the same manner and subject to the same conditions relating to credentials to solicit for charitable purposes. No person shall solicit under any such certificate of registration without such credentials in his possession, and such person shall, upon

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demand, present these credentials to any *person* solicited or to the *city manager/city clerk* or his agent or to any police officer of *the city/Kenmore*.

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5.70.190 Fraudulent misrepresentation and misstatements prohibited.

It is unlawful for any *person* to directly or indirectly solicit *contributions* for any purpose by misrepresentation of his name, occupation, financial condition, social condition or residence, and no *person* shall make or perpetrate any other misstatement, misrepresentation, deception or fraud in connection with any *solicitation* of any contribution for any purpose in the *city/City of Kenmore* or in any application or report filed in connection therewith.

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5.70.200 Violation – Penalty.

Any *person* who willfully violates any of the provisions of this chapter is, upon conviction thereof, punishable by a fine of not more than \$250.00 or by imprisonment in the county jail for a term of not more than 90 days, or by both fine and imprisonment.

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5.70.210 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any *person* who violates any provision of any business license ordinance shall be subject to a civil penalty in an amount not to exceed \$250.00 per violation to be directly assessed by the *city manager*. The *city manager*, in a reasonable manner, may vary the amount of the penalty assessed to consider the appropriateness of the penalty to the size of the business of the violator, the gravity of the violation, the number of past and present violations committed and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed will be enforced and collected in accordance with the procedure specified under this title.

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5.70.220 Additional enforcement.

Notwithstanding the existence or use of any other remedy, the *city manager* may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted.

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~~5.70.230 Severability.~~

~~It is the intention of the city council that each separate provision of this chapter is independent of all other provisions therein. Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this chapter.~~

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Chapter 5.75
VIOLATION – PENALTIES

Sections:

5.75.010 General.

5.75.020 Civil penalties.

5.75.010 General.

Any *person* violating or failing to comply with any of the provisions of *KMC* Chapters 5.05 through ~~5.70100~~ *KMC* shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in *KMC 1.15.010 and 1.15.020general City ordinance*.

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5.75.020 Civil penalties.

In addition to or as an alternative to any other penalty provided herein, any *person* violating any provision of Chapters 5.05 through ~~5.70100~~ *KMC* shall be subject to a civil penalty as provided in *KMC 1.15.010 and 1.15.020general City ordinance*.

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**Chapter 5.80
PANORAM PREMISES**

Sections:

- 5.80.010 Findings of fact.
- 5.80.020 Definitions.
- 5.80.030 Panoram premises license required.
- 5.80.040 Panoram device license required.
- 5.80.050 Panoram operator's license required.
- 5.80.060 Panoram manager's license required.
- 5.80.070 ~~License fee—Terms—Assignment—Renewals. *Repealed*~~
- 5.80.080 License application – Report by City departments.
- 5.80.090 Issuance of licenses.
- 5.80.100 Suspension or revocation of licenses – Notices – Summary suspension.
- 5.80.110 Appeal and hearing.
- 5.80.120 Premises regulations.
- 5.80.130 Unlawful acts.
- 5.80.140 Violations and penalties.
- 5.80.150 Compliance.

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5.80.010 Findings of fact.

The ~~cityCity of Kenmore~~ takes notice and specifically relies upon the experiences of and studies utilized by other cities and counties in combating the specific adverse impacts of sexually-oriented businesses, including panoram or "peep show" establishments. This includes but is not limited to the studies relied upon, findings of fact entered by, and litigation involving the cities of Tukwila, SeaTac, Shoreline, and Federal Way in their respective panoram ordinance provisions.

Additionally, the city council enters the following findings of fact related to panoram establishments within the ~~cityCity of Kenmore~~:

- A. The police have documented the existence of illegal sexual activity occurring within the panoram booths at panoram establishments within the ~~cityCity~~.
- B. The floor in the panoram booths is stained with fluid.
- C. Adoption of ~~the ordinance codified in~~ this chapter will minimize these and other illegal and unhealthful activities, and will preserve the public health, safety, and welfare.

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5.80.020 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 the individual or entity seeking any form of panoram *license* in the City of Kenmore.

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B. "Applicant control persons" means all partners, corporate officers and directors and any other individuals in the *applicant's* business organization who hold a significant interest in the panoram business, based on responsibility for management or control of the panoram business, regardless of whether such person's name appears on corporate filings, *license* applications, or other official documents of the *applicant*.

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C. "Clerk" means the City of Kenmore employee or agent appointed by the *city manager* as licensing official under this chapter.

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CD. "Panoram," "preview," "picture arcade" or "peep show" means any device which, for payment of a fee, membership fee or other charge, is used to view, exhibit or display a film or videotape. All such devices are denominated in this chapter by the terms "panoram" or "panoram device." The terms "panoram" and "panoram device" as used in this chapter do not include games which employ pictures, or gambling devices regulated by the State.

DE. "Panoram manager" means any *person* to whom the *applicant* or any *applicant* control person has delegated day to day administrative or management duties on the panoram premises.

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EF. "Panoram premises" means any premises or portion of any premises on which any panoram device is located and to which members of the public are admitted. The term "panoram premises" as used in this chapter does not include motion picture theater auditoriums.

FG. "Panoram station" means a portion of any panoram premises on which a panoram device is located and where a patron or customer would ordinarily be positioned while watching the panoram device.

5.80.030 Panoram premises license required.

A. It is unlawful to display, exhibit, expose or maintain any *panorampanoram* device upon any premises to which members of the public are admitted unless there is a valid and current *panorama premisespanoram premises license* for such premises.

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B. A separate *panorama premisespanoram premises license* is required for each *panorama premisespanoram premises* and the same shall at all times be conspicuously posted and maintained therein.

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C. The city manager shall prescribe the form of such license, number the same, and shall indicate thereon the number of panoram devices which may be operated thereunder, and the location of the licensed panorama premises.

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5.80.040 Panoram device license required.

A. It is unlawful to exhibit or display for public use any panoram device upon any panorama premises without first having obtained a panorama device license for each such panoram device.

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B. Panoram device licenses shall be issued for specific panoram premises only and shall not be transferable.

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C. The current panoram device license for each panoram device shall be securely attached to each panoram device in a conspicuous place.

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D. The city manager shall prescribe the form of such license and number the same.

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5.80.050 Panoram operator's license required.

It is unlawful to own and exhibit or display for public use, or to place with another, by lease or otherwise, for public use, exhibit or display, any panoram device without a valid and current panoram operator's license. The city manager shall prescribe the form of such license and shall number the same.

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5.80.060 Panoram manager's license required.

No person shall work as a manager at a panoram premises in the city without a valid and current panorama manager's license under this chapter. The city manager shall prescribe the form of such license and shall number the same.

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5.80.070 License fee — Terms — Assignment — Renewals.

A. The license year for licenses under this chapter shall be from January 1st to December 31st. All licenses under this chapter shall expire on December 31st of each year. Except as hereinafter provided, all license fees under this chapter shall be payable on an annual basis. Annual license fees shall be as follows:

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1. Panoram premises license, imposed by the city council by resolution;

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2. Panoram device license, imposed by the city council by resolution;

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3. Panoram manager license, imposed by the city council by resolution; and

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4. Panoram operator license, imposed by the city council by resolution.

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B. License fees under subsection (A) of this section shall not be prorated, except that if the original application for a license is made subsequent to June 30th in any year, the license fee for the remainder of that year shall be one-half of the annual license fee. Licenses issued under this chapter may not be assigned or transferred to other premises, operators or devices.

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C. On or before December 31st of each year, a licensee under this chapter shall file an application for renewal of each license he wishes to use in the next license year. An application for renewal of a license shall be filed in the same manner as an original application for such a license, and shall be accompanied by a renewal fee in an amount equal to the license fee applicable to an original application for such a license under this section. On renewal applications filed after December 31st, the clerk shall assess and collect an additional charge as follows:

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1. If the application is more than six but less than 31 days late, the additional charge is 10 percent of the renewal fee; and

2. If the application is more than 30 but less than 61 days late, the additional charge is 25 percent of the renewal fee.

5.80.080 License application – Report by City departments.

A. Any person seeking a panorama premises license, panoram operator's license or panoram device license shall file a written application with the city manager/clerk on a form provided by the city manager/clerk for that purpose.

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The city manager/clerk, upon presentation of a complete application and appropriate fee shall refer such application to the police department, and other appropriate city departments or contractors, for a full investigation as to the truth of the statements contained therein, and as to any or all other matters which would aid the city manager/clerk in determining compliance with this chapter and other applicable law.

Upon receipt of any complete application and appropriate fee for a license, the city manager/clerk shall further issue a temporary license, pending disposition of the application or the completion of the term of any license suspension issued pursuant to this chapter. The temporary license shall expire upon issuance of a license or renewal thereof or notice of nonissuance. The holder of a temporary license is subject to all requirements, standards, and penalty provisions of this chapter.

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B. Applicants for any license or renewal thereof under this chapter shall provide information as follows:

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1. With each application for a ~~panoram premises~~~~panoram premises~~ license or renewal thereof, applicants shall provide:

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a. The name, address and telephone number of each ~~person~~ applying for the ~~license~~;

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b. The name, address and telephone number of each ~~person~~ holding an ownership or leasehold interest in the ~~panoram premises~~~~panoram premises~~;

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c. The name, address and telephone number of the manager or other ~~person~~ responsible for the operation of the premises;

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d. The address of the premises;

e. The number of ~~panoram~~~~panoram~~ devices to be located on the premises; and

f. A sketch or drawing sufficient to show the layout of the premises, including all information necessary to determine whether the premises complies with the provisions of this chapter.

2. With each application for a ~~panoram~~~~panoram~~ device license or renewal thereof, applicants shall provide:

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a. The name, address and telephone number of each ~~person~~ applying for the ~~license~~;

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b. The name, address and telephone number of each ~~person~~ holding an ownership or leasehold interest in the ~~panoram~~~~panoram~~ device;

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c. The name, address and telephone number of each ~~person~~ responsible for the operation of the ~~panoram~~~~panoram~~ device;

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d. The address at which the ~~panoram~~~~panoram~~ device is to be located; and

e. A description of the ~~panoram~~~~panoram~~ device, including make, model and serial number.

3. With each application for a ~~panoram~~~~panoram~~ operator's and ~~panorama manager's~~~~panoram manager's~~ license, or any renewal thereof, applicants shall provide:

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a. For the ~~applicant~~, each ~~applicant control person~~, and each manager: names; any aliases or previous names; driver's license number, if any; Social Security number, if any; business, mailing, and residential address; and business and residential telephone number;

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b. If a partnership, whether general or limited, provide for all general partners the same information required under subsection (B)(3)(a) of this section;

c. If a corporation, date and place of incorporation, evidence that it is in good standing under the laws of the State of Washington, and name and address of any registered agent for service of process;

d. Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this chapter or any license for similar adult entertainment or sexually oriented business, including motion picture theaters and panorams, from the City or another city, county or state, and if so, the names and addresses of each other licensed business;

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e. A summary of the business history of the applicant, applicant control persons, and each manager in owning or operating the adult entertainment or other sexually oriented businesses, providing names, addresses and dates of operation for such businesses, and whether any business license or adult entertainment license has been revoked or suspended, and the reason therefor;

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f. For the applicant, all applicant control persons, and each manager, any and all criminal convictions or bail forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions, including the dates of conviction, nature of the crime, name and location of court and disposition;

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g. For the applicant and all applicant control persons, a description of their business, occupation or employment history for the three years immediately preceding the date of the application;

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h. The location and doing-business-as name of the proposed panoram-facility, 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;

i. 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; and

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j. A complete set of fingerprints for the applicant, each applicant control person, and each manager taken by the city police department or its designee.

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5.80.090 Issuance of licenses.

A. Upon receipt of any application, the city manager/clerk shall issue a temporary license or renewal thereof, pursuant to KMC 5.80.070(A), or notice of nonissuance and the reasons therefor.

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B. The city manager/clerk shall issue the permanent license or licenses applied for if, after investigation, the city manager/clerk finds that:

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1. The business for which a license is required herein will be conducted in a building, structure and location which complies with the requirements and standards of this chapter; and

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2. The applicant, his or her employee, agent, partner, director, officer, stockholder or manager has not knowingly made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record required to be filed with the city manager/clerk.

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5.80.100 Suspension or revocation of licenses – Notices – Summary suspension.

The city manager/clerk may, upon 10 days' written notice delivered to the license holder, temporarily suspend or permanently revoke any license issued pursuant to this chapter where one or more of the following conditions exist:

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A. The license application, or any report or record required to be filed with the city manager/clerk, includes one or more false, misleading, or fraudulent statements of material fact; or

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B. The building, structure, equipment or location of the business for which the license was issued does not comply with the requirements or the standards of this chapter, the city building code/Uniform Building Code as adopted by Kenmore, or other applicable law; or

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C. The licensee, his or her employee, agent, partner, director, officer or manager has knowingly allowed or permitted in or upon the premises any violations of this chapter or acts made unlawful under this chapter.

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5.80.110 Appeal and hearing.

A. Any person aggrieved by the action of the city manager/clerk in refusing to issue or renew any license under this chapter or in temporarily suspending or permanently revoking any license under this chapter shall have the right to appeal such action to the city hearing examiner, or to such other hearing body as may hereafter be established by the city council for the hearing of such appeals, by filing a notice of appeal with the city manager/clerk within 10 days of receiving notice of the action from which appeal is taken. The filing of such appeal shall stay the action of the city manager/clerk.

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B. The hearing body, upon receipt of a timely notice of appeal, shall set a date for a hearing of such appeal within 30 days from the date of such receipt, unless extended by mutual agreement or for good cause shown. The hearing shall be de novo. The hearing body shall hear testimony, take evidence and may hear oral argument and receive written briefs.

C. The decision of the hearing body on an appeal from a decision of the city manager~~clerk~~ shall be based upon a preponderance of the evidence. The burden of proof shall be on the city~~City~~.

D. Any person aggrieved by the decision of the hearing examiner or other designated hearing body shall have the right to appeal the decision to the superior court by writ of certiorari filed and served upon the City~~city~~ within 14 calendar days after the date of the hearing examiner's or other hearing body's decision. The filing of such appeal shall stay the decision of the hearing examiner or other designated hearing body.

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5.80.120 Premises regulations.

A. It shall be unlawful and a violation of this chapter for a panoram~~panoram~~-operator, manager, or anyone owning or controlling a panoram~~panoram~~ premises, to cause, maintain, or permit to exist any condition in violation of this section, and the city manager~~clerk~~ shall not license any panoram premises~~panoram premises~~ which do not conform to the requirements of this section, and shall revoke or suspend the license of any panoram premises~~panoram premises~~, and the license of any operator and any manager thereof, which do not maintain conformity with these requirements.

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B. All panoram~~panoram~~ stations must be open to an adjacent public room so that the entire area inside each station is visible by direct line of sight to persons in the adjacent public room, including the manager. The entire interior of every panoram~~panoram~~ station shall be visible and may not be obscured by any curtain, door, enclosure, or other form of screening device. Any chair or other seating surface within a panoram station shall not provide a seating surface of greater than 18 inches in either length or width. Only one such chair or other seating surface shall be placed in any panoram~~panoram~~ station.

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C. The panoram~~panoram~~ stations on any panorama premises~~panoram-premises~~ shall be separated by partitions constructed of wood or other solid and opaque material. No openings in such partitions for ventilation or other purposes shall extend higher than 12 inches from the floor or lower than 84 inches from the floor. Any such opening shall be covered with a permanently affixed wire mesh or other cover not capable of penetration by solid matter.

D. The licensee shall not permit any doors to other areas on the premises which are available for use by persons other than the licensee or employees of the licensee to be locked during business hours.

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E. All ~~panoram~~ stations and other public areas of the ~~panoram premises~~ shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which employees, patrons, invitees or customers are permitted access at an illumination of not less than 10 foot candles as measured at the floor level at all times while patrons, invitees or customers are permitted within the ~~panoram premises~~.

F. The entire floor area of a ~~panoram~~ booth or stall must be level with the continuous main aisle. No steps, ramps or risers are allowed in any such booth or stall.

G. The *licensee* shall permanently post and maintain on the interior and exterior of each booth or stall on the ~~panorama premises~~ a sign with two-inch lettering on a contrasting background stating:

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Occupancy of this booth is at all times limited to only one *person*. Violations are subject to criminal prosecution.

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H. The *licensee* shall not operate or maintain any warning system or device, of any nature or kind, for the purpose of warning customers or patrons or any other *persons* occupying ~~panoram~~ booths or stalls located on the *licensee's* premises that police officers or *city* health, fire, licensing or building inspectors are approaching or have entered the *licensee's* premises.

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I. A licensed ~~panoram manager~~ shall be on the premises at all times that the ~~panorama premises~~ is open to the public for business.

J. No *person* under the age of 18 shall be permitted to enter any ~~panorama premises~~.

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K. All ~~panoram stations~~ shall be maintained in a clean and sanitary condition at all times. All floors, walls and ceilings shall consist only of hard, cleanable surfaces. All ~~panoram stations~~ shall be thoroughly cleaned with a diluted bleach solution whenever necessary for the removal of any potentially infectious materials (including, without limitation, semen, blood and vaginal secretions), but at least once daily. A record of such cleaning, listing the date and time, shall be posted in each ~~panorama station~~. Any such potentially infectious materials, together with any cleaning rags, cloths or other implements, and any condoms, needles, or other items that may contain such potentially infectious materials, shall be placed in a properly labeled "medical waste" bag and disposed of pursuant to applicable laws or regulations.

L. It shall be unlawful for any ~~panoram premises~~ to be operated or otherwise open to the public between the hours of 2:00 a.m. and 10:00 a.m.

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5.80.130 Unlawful acts.

A. A ~~panoram station~~~~panoram-station~~ subject to the requirements of this chapter may only be occupied by one ~~person~~ at any one time. It is unlawful for any ~~person~~ to occupy such a booth or stall at the same time it is occupied by any other ~~person~~.

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B. It is unlawful to stand or kneel on any chair or seating surface in a ~~panoram~~~~panoram~~-booth or stall.

C. It is unlawful for any owner, operator, manager, employee or other ~~person~~ in charge of premises for which a ~~panoram~~~~panoram~~ location ~~license~~ is required to warn, or to aid and abet the warning, of customers or patrons or any other ~~persons~~ occupying ~~panoram~~~~panoram~~-booths or stalls located on the ~~licensee's~~ premises that police officers or health, fire, licensing or building inspectors are approaching or have entered the ~~licensee's~~ premises.

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D. It is unlawful within any ~~panoram premises~~~~panoram-premises~~ for any ~~person~~ to masturbate, or expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, penis, vulva or ~~genitals~~.

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5.80.140 Violations and penalties.

It is unlawful for any ~~person~~ to violate any provision or to fail to comply with any of the requirements of this chapter. Any ~~person~~ violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter, including the premises regulations enumerated in KMC 5.80.110, shall upon conviction thereof be guilty of a gross misdemeanor and shall be punished by a fine of not more than \$5,000, or by imprisonment of a period of not more than one year, or by both such fine and imprisonment.

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Each such ~~person~~ shall be guilty of a separate offense for each and every day, or part of day, during which any violation of any provision of this chapter is committed, continued, or permitted. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be abated as such, and each day that such condition continues shall be regarded as a new and separate offense. All costs expended by the ~~city~~~~City~~ in any such nuisance abatement or other action, including police investigation costs and attorney fees, shall be recoverable as part of any judgment in the ~~city's~~~~City's~~ favor.

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5.80.150 Compliance.

All ~~persons~~ and premises regulated pursuant to this chapter shall comply with this chapter within 30 days of its effective date.

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ATTACHMENT #1

Chapter 5.85
PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Sections:

- 5.85.010 Definitions.**
- 5.85.020 Registration required.**
- 5.85.030 Identification.**
- 5.85.040 Hours of operation.**
- 5.85.050 No soliciting signs compliance.**
- 5.85.060 Use of streets, parks or rights-of-way.**
- 5.85.070 Exemptions.**
- 5.85.080 Enforcement and penalties.**

5.85.010 Definitions.

A. "Peddler" means any *person* with no fixed place of business who goes from house to house, from place to place or from state to state, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchasers.

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B. "Registered solicitor" means and includes any *person* or business which has obtained a valid *certificate* or *registration* as provided in this chapter.

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C. "Solicitor" means any *person* who goes from house to house, from place to place, or from state to state, soliciting, taking or attempting to take orders for any goods, wares or merchandise, including books, periodicals, magazines or personal property of any nature whatsoever, including any services for future delivery.

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D. "Transient merchant" means any *person*, firm or corporation who engages temporarily in the business of selling and delivering goods, wares or merchandise within the *city*City, and who, in furtherance of such purposes, hires, leases, uses or occupies any building, structure or vacant lot, motor vehicle, or trailer.

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5.85.020 Registration required.

It is unlawful and a nuisance for any *person* to engage in commercial or business *solicitation* and/or canvassing, calling at residences without the previous consent of the occupant for purposes of soliciting orders, sales, subscriptions or business commercial information without first having registered in the office of the *city manager*city clerk. The *applicant* shall provide a written signed application stating:

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A. The name, address, telephone number and contact *person* for the principal *applicant*applicant;

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B. The nature of the products or services involved, the names of the manufacturers, if any;

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C. The proposed method of operation in the cityCity;

D. A list of persons who will solicit or canvass in the cityCity, including each person's name, address and telephone number, a general description of each person; and

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E. Any other information required by the city managerCity.

5.85.030 Identification.

Every peddler, solicitor, registered solicitor or transient merchant shall not conduct business within the cityCity limits without possessing a valid copy of their solicitor/peddler certificate at all times.

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5.85.040 Hours of operation.

Peddlers, solicitors, registered solicitors or transient merchants shall not operate within the cityCity limits of Kenmore between the hours of 8:00 p.m. and 8:00 a.m. without a prearranged appointment.

5.85.050 No soliciting signs compliance.

No peddler, solicitor, registered solicitor, or transient merchant shall contact any residence that is posted by signage that such contacts are not desired by the residents.

5.85.060 Use of streets, parks or rights-of-way.

No peddler, solicitor, registered solicitor or transient merchant shall have any exclusive right to any location in the public streets, parks or public rights-of-way, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations might impede or inconvenience the public. For the purpose of this section the judgment of a law enforcement officer, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced.

5.85.070 Exemptions.

Except where noted the following shall be exempt from all provisions of this chapter:

Officers or employees of the cityCity, county, State or federal government, or any subdivision thereof when on official business.

Charitable, religious, nonprofit organizations, any political campaign on behalf of (or in opposition to) any candidate for public office or other similar civic, charitable, or nonprofit organizations shall be exempt from all provisions except the section pertaining to compliance with "No soliciting" signage.

Mobile food trucks with food or drink, prepared on-site or pre-packaged, selling and serving to the general public and licensed by King County Public Health Department shall be exempt from this Chapter.

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5.85.080 Enforcement and penalties.

A. ~~Violation—Penalty~~. Violation of this chapter is a misdemeanor and any ~~person, business, firm or~~ corporation who violates any of the provisions herein shall upon conviction be punished by a fine of up to \$1,000 and/or imprisonment for a term not to exceed 90 days.

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ATTACHMENT #1

Chapter 5.90 ADULT CABARETS

Sections:

- 5.90.010 Definitions.
- 5.90.020 License required.
- 5.90.030 License prohibited to certain classes.
- 5.90.040 Adult cabaret license.
- 5.90.050 Adult cabaret manager and entertainer licenses.
- 5.90.060 ~~Adult cabaret license fees.~~ Repealed
- 5.90.070 Appeal.
- 5.90.080 Standards of conduct and operation for adult cabarets.
- 5.90.090 Adult cabaret premises specifications.
- 5.90.100 Recordkeeping and inspection requirements for adult cabarets.
- 5.90.110 Hours of operation for adult cabarets.
- 5.90.120 Dramatic works excepted.
- 5.90.130 ~~License term, assignment and renewals.~~ Repealed
- 5.90.140 License suspension and revocation.
- 5.90.150 Liquor regulations.
- 5.90.160 Violation a misdemeanor.
- 5.90.170 Nuisance declared.
- 5.90.180 Additional enforcement.
- 5.90.190 ~~Severability.~~ Repealed

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5.90.010 Definitions.

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

A. "Adult cabaret" means any commercial premises to which any member of the public is invited or admitted and where an entertainer provides live adult entertainment to any member of the public.

B. "Adult entertainment" means:

1. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance, or dance involves a *person* who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or *genitals*, or wearing any device or covering exposed to

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ATTACHMENT #1

view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or *genitals*, or human male *genitals* in a discernibly turgid state, even if completely and opaquely covered; or

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2. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:

a. Human *genitals* in a state of sexual stimulation or arousal;

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b. Acts of human masturbation, sexual intercourse or sodomy; or

c. Fondling or other erotic touching of human *genitals*, pubic region, buttocks or female breast; or

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3. Any exhibition, performance or dance which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the premises activity. This includes, but is not limited to, any such exhibition, performance or dance performed for, arranged with or engaged in with fewer than all members of the public on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

C. "Applicant" means the individual or entity seeking an adult cabaret *license* in the City of Kenmore.

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D. "Applicant control persons" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the adult cabaret business, based on responsibility for management of the adult cabaret business.

~~E. "Clerk" means such City employees or agents as the city manager shall designate to administer this chapter, or any designee thereof.~~

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~~EF. "Employee" means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to the operation of any adult cabaret.~~

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~~FG. "Entertainer" means any person who provides adult entertainment within an adult cabaret as defined in this section, whether or not a fee is charged or accepted for entertainment.~~

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~~HG. "Liquor" means all beverages defined in RCW 66.04.200.~~

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H. "Manager" means any *person* who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult cabaret, and includes assistant managers working with or under the direction of a manager to carry out such purposes.

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J. "Operator" means any *person* operating, conducting or maintaining an adult cabaret.

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K. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

L. "Member of the public" means any customer, patron, club member, or *person*, other than an employee as defined in this section, who is invited or admitted to an adult cabaret.

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M. "Sexual conduct" means acts of:

1. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight;
or

2. Any penetration of the vagina or anus, however slight, by an object; or

3. Any contact between *persons* involving the sex organs of one *person* and the mouth or anus of another; or

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4. Masturbation, manual or instrumental, of oneself or of one *person* by another; or

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5. Touching of the sex organs or anus, whether clothed or unclothed, of oneself or of one *person* by another.

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5.90.020 License required.

A. It is unlawful for any *person* to conduct, manage or operate an ~~adult cabaret~~ *adult cabaret* unless such *person* is the holder of a valid and subsisting *license* from the ~~city~~ *City* to do so, obtained in the manner provided in this chapter.

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B. It is unlawful for any ~~entertainer, employee or manager~~ *entertainer, employee or manager* to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of, an unlicensed ~~adult cabaret~~ *adult cabaret*.

C. It is unlawful for any entertainer to perform in an ~~adult cabaret~~ *adult cabaret* unless such *person* is the holder of a valid and subsisting *license* from the ~~city~~ *City* to do so.

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D. It is unlawful for any ~~managemanager~~ to work in an ~~adult cabaretadult cabaret~~ unless such ~~person~~ is the holder of a valid and subsisting ~~license~~ from the ~~cityCity~~ to do so.

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5.90.030 License prohibited to certain classes.

No ~~license~~ shall be issued to:

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A. A natural ~~person~~ who has not attained the age of 21 years, except that ~~licenses~~ may be issued to ~~persons~~ who have attained the age of 18 years with respect to ~~adult cabaretsadult cabarets~~ where no intoxicating liquors are served or provided.

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B. A ~~person~~ whose place of business is conducted by a ~~managemanager~~ or agent, unless such ~~managemanager~~ or agent possesses the same qualifications required of the ~~licensee~~, or in the case of a ~~managemanager~~ of an ~~adult cabaretadult cabaret~~, the ~~managemanager~~ has obtained a ~~manager'smanager's~~ ~~license~~.

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C. A copartnership, unless all the members thereof are qualified to obtain a ~~license~~ as provided in this chapter. Such ~~license~~ shall be issued to the ~~managemanager~~ or agent thereof.

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D. A corporation, unless all the officers and directors thereof are qualified to obtain a ~~license~~ as provided herein. Such ~~license~~ shall be issued to the ~~managemanager~~ or agent thereof.

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5.90.040 Adult cabaret license.

A. Any ~~person~~ desiring ~~aan adult cabaret-cabaret~~ ~~license~~ required under the provisions of this chapter shall file written application with the ~~city managerclerk~~, on forms provided by the ~~city managerclerk~~ for that purpose, in the name of the ~~person~~ or entity proposing to conduct an ~~adult cabaretadult cabaret~~ on the business premises. A failure to provide all information required on the form will constitute an incomplete application and will not be processed. All applications shall be submitted on a form supplied by the City, which shall require the following information:

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1. For the ~~applicantapplicant~~ and for each ~~applicant control personapplicant control person~~, provide: names, any aliases or previous names, driver's license number (if any), Social Security number (if any), and business, mailing, and residential address, and business telephone number.

2. If a partnership, whether general or limited; and if a corporation, date and place of incorporation, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.

3. Whether the applicant or any partner, corporate officer, or director of the applicant holds any other ~~licenses~~ under this chapter or any ~~license~~ for similar adult entertainment or sexually oriented

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business, including ~~adult cabarets~~adult cabarets, adult panorams or adult retail businesses, from the ~~city~~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 and ~~applicant control persons~~ in owning or operating the adult entertainment or other sexually oriented businesses, providing names, addresses and dates of operation for such businesses, and whether any business ~~license~~ or adult entertainment ~~license~~ has been revoked or suspended, and the reason therefor.

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~~5. For the applicant and all applicant control persons, any and all criminal convictions or forfeitures~~ ~~adult cabaret~~within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions, including the dates of conviction, nature of the crime, name and location of court and disposition.

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6. For the applicant and all ~~applicant control persons~~, a description of business, occupation or employment history for the three years immediately preceding the date of the application.

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7. Authorization for the ~~city~~City, its agents and employees to seek information to confirm any statements set forth in the application.

8. The location and doing-business-as name of the proposed ~~adult cabaret~~adult cabaret, 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.

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.

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10. A complete set of fingerprints for the applicant or each ~~applicant control person~~applicant control person, by ~~city~~Kenmore police department employees.

11. A scale drawing or diagram showing the configuration of the premises for the proposed ~~adult cabaret~~adult cabaret, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, ~~manager's~~manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. An application for a ~~license~~ for an ~~adult cabaret~~adult cabaret shall include building plans which demonstrate conformance with this chapter.

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

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that the application is complete. The city manager~~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 must be paid at the time of filing an application in order to defray the costs of processing the 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 an adult cabaret~~adult cabaret~~ 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 manager~~city clerk~~, no later than 21 days following such acquisition. The notice required shall include the information required for the original adult cabaret~~adult cabaret~~ license application.

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

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

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H. Upon receipt of the complete application and fee, the city manager~~clerk~~ shall provide copies to the appropriate city~~City~~ departments for their investigation and review to determine compliance of the proposed adult cabaret~~adult cabaret~~ with the laws and regulations which each department administers.

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Each department shall, within 20 days of the date of such application, inspect the application and premises and shall make a written report to the city manager~~clerk~~ whether such application and premises comply with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws, unless the 20-day period has lapsed. In the event 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.

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Any adult cabaret~~adult cabaret~~ 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. A department shall

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recommend denial of a *license* under this subsection if it finds that the proposed *adult cabaret* *adult cabaret* is not in conformance with the requirements of this chapter or other law in effect in the *city* *City*. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

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I. An adult cabaret *license* shall be issued by the *city manager* *clerk* within 30 days of the date of filing a complete *license* application and fee, unless the *city manager* *clerk* determines that the applicant has failed to meet any of the requirements of this chapter or 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 for a *license*. The *city manager* *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 manager* *clerk* finds that the applicant has failed to meet any of the requirements for issuance of an *adult cabaret* *adult cabaret* *license*, the *city manager* *clerk* shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the *city manager* *clerk* fails to issue or deny the *license* within 30 days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable laws, to operate the business for which the *license* was sought until notification by the *city manager* *clerk* that the *license* has been denied, but in no event may the *city manager* *clerk* extend the application review time for more than an additional 20 days.

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5.90.050 Adult cabaret manager and entertainer licenses.

A. No *person* shall work as a *manager* *manager*, assistant *manager* *manager* or *entertainer* *entertainer* at an *adult cabaret* *adult cabaret* without an *entertainer's* *entertainer's* or *manager's* *manager's* *license* from the *city* *City*. Each applicant for a *manager's* *manager's* or *entertainer's* *entertainer's* *license* shall complete an application on forms provided by the *city manager* *City* containing the information identified below. A copy of the application shall be provided to the *city* police department for its review, investigation and recommendation. All applications for a *manager's* *manager's* or *entertainer's* *entertainer's* *license* shall be signed by the applicant and certified to be true under penalty of perjury. The *manager's* *manager's* or *entertainer's* *entertainer's* *license* application shall require the following information:

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1. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by *city* *Kenmore* police department employees, Social Security number (if any), and any stage names or nicknames used in entertaining.
2. The name and address of each business at which the applicant intends to work.
3. Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

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- a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
 - b. A State-issued identification card bearing the applicant's photograph and date of birth;
 - c. An official passport issued by the United States of America;
 - d. An immigration card issued by the United States of America; or
 - e. Any other identification that the cityCity determines to be acceptable.
4. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.
 5. A description of the applicant's principal activities or services to be rendered.
 6. Two two-inch by two-inch photographs of applicant, taken within six months of the date of application, showing only the full face.
 7. Authorization for the cityCity, its agents and employees to investigate and confirm any statements set forth in the application.
 8. Every adult entertainerentertainer shall provide his or her license to the adult cabaret manageradult cabaret manager on duty on the premises prior to the entertainer'shis or her performance. The managermanager shall retain the licenses of the adult entertainersentertainers readily available for inspection by the cityCity at any time during business hours of the adult cabaretadult cabaret.
- B. The city managerclerk may request additional information or clarification when necessary to determine compliance with this chapter.
- C. An adult cabaret manager'sadult cabaret manager's or an adult entertainer'sentertainer's license shall be issued by the city managerclerk within 14 days from the date the complete application and fee are received unless the city managerclerk determines that the applicant has failed to provide any information required to be supplied according to this chapter; has made any false, misleading or fraudulent statement of material fact in the application; or has failed to meet any of the requirements for issuance of a license under this chapter. If the city managerclerk determines that the applicant has failed to qualify for the license applied for, the city managerclerk shall deny the application in writing and shall cite the specific

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reasons therefor, including applicable laws. If the city manager/clerk has failed to approve or deny an application for an adult cabaret manager's/adult cabaret manager's license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work as an adult cabaret manager in a duly licensed adult cabaret/adult cabaret until notified by the city manager/clerk that the license has been denied, but in no event may the city manager/clerk extend the application review time for more than an additional 20 days.

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D. An applicant for an adult cabaret manager's/adult cabaret manager's license or an adult entertainer's/entertainer's license shall be issued a temporary license upon receipt of a complete license application and fee. Said temporary license will automatically expire on the fourteenth day following the filing of the complete application and fee, unless the city manager/clerk has failed to approve or deny the license application, in which case the temporary license shall be valid until the city manager/clerk approves or denies the application, or until the final determination of any appeal from a denial of the application. In no event may the city manager/clerk extend the application review time for more than an additional 20 days.

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5.90.060 Adult cabaret license fees.

A. Any person desiring to obtain an adult cabaret license shall first pay a license fee pursuant to the City's adopted fee schedule.

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B. Any person desiring to obtain an adult cabaret manager's license shall first pay a license fee pursuant to the City's adopted fee schedule.

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C. Any person desiring to obtain an adult cabaret entertainer's license shall first pay a license fee pursuant to the City's adopted fee schedule.

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5.90.070 Appeal.

A. Denial of License. Any person aggrieved by the action of the city manager/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 manager/clerk within 21 days of notice of the refusal to issue or renew. The decision of the city manager/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.

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B. Appeal to Superior Court. 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.

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5.90.080 Standards of conduct and operation for adult cabarets.

A. The following standards of conduct must be adhered to by employees of any ~~adult cabaret~~~~adult cabaret~~ while in any area in which members of the public are allowed to be present:

1. No ~~employee~~~~employee~~ or ~~entertainer~~~~entertainer~~ shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or *genitals*, except upon a stage at least 18 inches above the immediate floor level and removed at least eight feet from the nearest member of the public.

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2. No ~~employee~~~~employee~~ or ~~entertainer~~~~entertainer~~ mingling with members of the public shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subsection (A)(1) of this section, nor shall any male employee or entertainer at any time appear with his *genitals* in a discernibly turgid state, even if completely and opaquely covered, or wear or use any device or covering which simulates the same.

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3. No ~~employee~~~~employee~~ or ~~entertainer~~~~entertainer~~ mingling with members of the public shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, *genitals*, anus, any portion of the pubic region, or buttocks.

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4. No ~~employee~~~~employee~~ or ~~entertainer~~~~entertainer~~ shall caress, fondle or erotically touch any member of the public. No ~~employee~~~~employee~~ or ~~entertainer~~~~entertainer~~ shall encourage or permit any member of the public to caress, fondle or erotically touch any ~~employee~~~~employee~~ or ~~entertainer~~~~entertainer~~.

5. No ~~employee~~~~employee~~ or ~~entertainer~~~~entertainer~~ shall perform actual or simulated acts of sexual conduct as defined in this chapter, or any act which constitutes a violation of Chapter 7.48A RCW, the Washington Moral Nuisances Statute.

6. No ~~employee~~~~employee~~ or ~~entertainer~~~~entertainer~~ mingling with members of the public shall conduct any dance, performance or exhibition in or about the nonstage area of the adult cabaret unless that dance, performance or exhibition is performed at a distance of no less than four feet, measured from torso to torso, from any member of the public.

7. No tip or gratuity offered to or accepted by an adult ~~entertainer~~~~entertainer~~ may be offered or accepted prior to any performance, dance or exhibition provided by the ~~entertainer~~~~entertainer~~. No ~~entertainer~~~~entertainer~~ performing upon any stage area shall be permitted to accept any form of gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any

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~~entertainer~~ performing upon any stage area must be placed into a receptacle provided for receipt of gratuities by the adult cabaret or provided through a ~~manager~~ on duty on the premises. Any gratuity or tip offered to any adult ~~entertainer~~ conducting any performance, dance or exhibition in or about the nonstage area of the ~~adult cabaret~~ shall be placed into the hand of the adult ~~entertainer~~ or into a receptacle provided by the adult ~~entertainer~~, and not upon the ~~person~~ or into the clothing of the adult ~~entertainer~~.

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B. At any ~~adult cabaret~~, the following are required:

1. Admission must be restricted to ~~persons~~ of the age of 18 years or more. It is unlawful for any owner, ~~operator~~, ~~manager~~ or other ~~person~~ in charge of an ~~adult cabaret~~ to knowingly permit or allow any ~~person~~ under the minimum age specified to be in or upon such premises.

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2. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, ~~genitals~~, and/or anus may be visible outside of the ~~adult cabaret~~.

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3. No member of the public shall be permitted at any time to enter into any of the nonpublic portions of the ~~adult cabaret~~, which shall include but are not limited to: the dressing rooms of the ~~entertainers~~ or other rooms provided for the benefit of ~~employees~~, and the kitchen and storage areas; except that ~~persons~~ delivering goods and materials, food and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.

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C. The responsibilities of the ~~manager~~ of an ~~adult cabaret~~ shall include but are not limited to:

1. A licensed ~~manager~~ shall be on duty at an ~~adult cabaret~~ at all times ~~adult entertainment~~ is being provided or members of the public are present on the premises. The name and ~~license~~ of the ~~manager~~ shall be prominently posted during business hours. The ~~manager~~ shall be responsible for verifying that any ~~person~~ who provides ~~adult entertainment~~ within the premises possesses a current and valid ~~entertainer's license~~.

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2. The licensed ~~manager~~ on duty shall not be an ~~entertainer~~.

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3. The ~~manager~~ or an assistant ~~manager~~ licensed under this chapter shall maintain visual observation of each member of the public at all times any ~~entertainer~~ is present in the public or performance areas of the ~~adult cabaret~~. Where there is more than one performance area, or the performance area is of such size or configuration that one ~~manager~~ or assistant ~~manager~~ is unable to visually observe, at all times, each adult ~~entertainer~~, each ~~employee~~, and each member of the public, a ~~manager~~ or assistant ~~manager~~ licensed under this chapter shall be provided for each public or performance area or portion of a public or performance area visually separated from other portions of the ~~adult cabaret~~.

4. The ~~manager~~ shall be responsible for and shall assure that the actions of members of the public, the adult ~~entertainers~~ and all other ~~employees~~ shall comply with all requirements of this chapter.

5.90.090 Adult cabaret premises specifications.

A. ~~Performance Area~~. The performance area of the ~~adult cabaret~~ where ~~adult entertainment~~ is provided shall be a stage or platform at least 18 inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least eight feet from all areas of the premises to which members of the public have access. A continuous railing at least three feet in height and located at least eight feet from all points of the performance area shall separate the performance area and the patron seating areas. The stage and the entire interior portion of cubicles, rooms or stalls wherein ~~adult entertainment~~ is provided must be visible from the common areas of the premises and at least one ~~manager's~~ station. Visibility shall not be blocked or obstructed by doors, curtains, drapes or any other obstruction whatsoever.

B. ~~Lighting~~. Sufficient lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times. A minimum lighting level of 30 lux horizontal, measured at 30 inches from the floor and on 10-foot centers is hereby established for all areas of the ~~adult cabaret~~ where members of the public are admitted.

C. ~~Signs~~. A sign at least two feet by two feet, with letters at least one inch high, shall be conspicuously displayed in the public area(s) of the premises stating the following:

THIS ADULT CABARET IS REGULATED BY THE CITY OF KENMORE. ENTERTAINERS ARE:

A. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT

B. NOT PERMITTED TO APPEAR SEMI-NUDE OR NUDE, EXCEPT ON STAGE

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C. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES IN ADVANCE OF THEIR PERFORMANCE

D. NOT PERMITTED TO ACCEPT TIPS DIRECTLY FROM PATRONS WHILE PERFORMING UPON ANY STAGE AREA

5.90.100 Recordkeeping and inspection requirements for adult cabarets.

A. All papers, records, and things required to be kept pursuant to this chapter shall be open to inspection by the city manager during the hours when the licensed premises are open for business, upon two days' written notice. The purpose of such inspections shall be to determine whether the papers, records, and things meet the requirements of this chapter.

B. Each adult entertainment business shall maintain and retain for a period of two years the name, address, and age of each person employed or otherwise retained or allowed to perform on the premises as an adult entertainer, including independent contractors and their employees, as an entertainer. This information shall be open to inspection by the city manager during hours of operation of the business upon 24 hours' notice to the licensee.

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C. Inspections. In order to ensure compliance with this chapter all areas of licensed adult cabarets which are open to members of the public shall be open to inspection by City agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. It is hereby expressly declared that unannounced inspections are necessary to ensure compliance with this chapter.

5.90.110 Hours of operation for adult cabarets.

It is unlawful for any adult cabaret to be operated or otherwise open to the public between the hours of 2:00 a.m. and 10:00 a.m.

5.90.120 Dramatic works excepted.

A. This chapter shall not be construed to prohibit:

1. Plays, operas, musicals, or other dramatic works that are not obscene;
2. Classes, seminars and lectures which are held for serious scientific or educational purposes and which are not obscene; or
3. Exhibitions, performances, expressions or dances that are not obscene.

B. These exemptions shall not apply to the sexual conduct described in RCW 7.48A.010(2)(b)(ii) and (iii).

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C. Whether or not activity is obscene shall be judged by consideration of the following factors:

1. Whether the average *person*, applying contemporary community standards, would find that the activity taken as a whole appeals to a prurient interest in sex; and
2. Whether the activity depicts or describes in a patently offensive way, as measured against community standards, sexual conduct as described in RCW 7.48A.010(2)(b); and
3. Whether the activity taken as a whole lacks serious literary, artistic, political or scientific value.

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5.90.130 License term, assignment and renewals.

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

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B. Application for renewal of *licenses* issued hereunder shall be made to the clerk no later than 30 days prior to the expiration of adult cabaret *licenses*, and no later than 14 days prior to the expiration of adult cabaret manager and entertainer *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 clerk an additional charge, computed as a percentage of the *license* fee, on applications not made on or before said date, as follows:

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

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C. The clerk shall renew a *license* upon application unless the clerk is aware of facts that would disqualify the applicant from being issued the *license* for which he or she seeks renewal; and further provided, that the application complies with all provisions of this chapter as now enacted or as the same may hereafter be amended.

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5.90.140 License suspension and revocation.

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

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this chapter at any time where the same was procured by fraud or false representation of fact; or for the violation of, or failure to comply with, the provisions of this chapter or any of the provisions of ~~this code~~the Kenmore Municipal Code or any other similar local or State law by the *licensee* or by any of his servants, agents or employees when the *licensee* knew or should have known of the violations committed by his servants, agents or employees; or for the conviction of the *licensee* of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises, or the conviction of any of his servants, agents or employees of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises in which his cabaret is conducted when the *licensee* knew or should have known of the violations committed by his servants, agents or employees.

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B. A *license* procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the *license* shall be suspended for a period of 30 days upon the first such violation, 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.

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C. The ~~city manager~~clerk shall provide at least 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 manager~~clerk shall be stayed during the pendency of any appeal except as provided in subsection (D) of this section.

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D. Where the ~~city~~City of Kenmore building official or fire marshal or their designees or the King County health department find that any condition exists upon the premises of a cabaret or ~~adult cabaret~~adult cabaret which constitutes a threat of immediate serious injury or damage to ~~persons or property~~, said 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 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, however, that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal.

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5.90.150 Liquor regulations.

Any license issued pursuant to this chapter shall be subject to any rules or regulations of the Washington State Liquor Control Board relating to the sale of intoxicating liquor. In the event of a conflict between the provisions of this chapter and the applicable rules and regulations of the Washington State Liquor Control Board, the rules and regulations of the Washington State Liquor Control Board shall control.

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5.90.160 Violation a misdemeanor.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter shall upon conviction thereof be guilty of a gross misdemeanor and shall be punished by a fine of not more than \$5,000, or by imprisonment of a period of not more than one year, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day, or part of day, during which any violation of this chapter is committed, continued, or permitted.

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5.90.170 Nuisance declared.

A. Public Nuisance. Any adult cabaret~~adult cabaret~~ operated, conducted, or maintained in violation of this chapter or any law of the city~~City of Kenmore~~ or the State of Washington shall be, and the same is, declared to be unlawful and a public nuisance. The city attorney may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or maintaining an adult cabaret~~adult cabaret~~ contrary to the provisions of this chapter. All costs expended by the City in any such nuisance abatement or other action, including police investigation costs and attorney fees, shall be recoverable as part of any judgment in the City's favor.

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B. Moral Nuisance. Any adult cabaret~~adult cabaret~~ operated, conducted or maintained contrary to the provisions of Chapter 7.48A RCW, Moral Nuisance, shall be, and the same is declared to be, unlawful and a public and moral nuisance and the city attorney may, in addition to or in lieu of any other remedies set forth herein, commence an action or actions to abate, remove and enjoin such public and moral nuisance, or impose a civil penalty, in the manner provided by Chapter 7.48A RCW.

5.90.180 Additional enforcement.

The remedies found in this chapter are not exclusive, and the city~~City~~ may seek any other legal or equitable relief, including but not limited to enjoining any acts or practices which constitute or will constitute a violation of this title~~any business license ordinance~~ or other regulations herein adopted.

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~~5.90.190 Severability.~~

~~Should any section, paragraph, sentence, clause or phrase of this chapter, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this chapter be preempted by State or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this chapter or its application to other persons or circumstances.~~

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**Chapter 5.95
ADULT RETAIL BUSINESSES**

Sections:

- 5.95.010 Definitions.
- 5.95.020 License required.
- 5.95.030 License prohibited to certain classes.
- 5.95.040 Adult retail business license.
- 5.95.050 ~~Adult retail business license fees.~~ *Repealed*
- 5.95.060 Appeal.
- 5.95.070 ~~License term, assignment and renewals.~~ *Repealed*
- 5.95.080 License suspension and revocation.
- 5.95.090 Standards of conduct for adult retail businesses.
- 5.95.100 Levels of lighting.
- 5.95.110 Hours of operation for adult retail businesses.
- 5.95.120 Violation a misdemeanor.
- 5.95.130 Nuisance declared.
- 5.95.140 Additional enforcement.
- 5.95.150 ~~Severability.~~ *Repealed*

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5.95.010 Definitions.

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

A. "Adult retail business" means an enclosed building, or any portion thereof, which, for money or any other form of consideration, devotes a significant or substantial portion of its stock in trade to the sale, exchange, rental, loan, trade transfer, or viewing of adult-oriented merchandise.

B. "Adult-oriented merchandise" means any goods, products, commodities, or other wares, including, but not limited to, videos, CD-ROMS, DVDs, computer disks or other storage devices, magazines, books, pamphlets, posters, cards, periodicals or nonclothing novelties which depict, describe or simulate specified anatomical areas or specified sexual activities.

C. "Applicant" means the individual or entity seeking an adult retail business ~~license in the city~~ *City of Kenmore.*

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D. "Applicant control persons" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the adult retail business, based on responsibility for management of the adult retail business.

~~E. "Clerk" means such City employees or agents as the city manager shall designate to administer this chapter, or any designee thereof.~~

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~~EF. "Employee" means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to the operation of any adult retail business.~~

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~~EG. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.~~

~~GH. "Specified anatomical areas" means the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.~~

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~~HI. "Specified sexual activities" means:~~

~~1. Human genitals in a state of sexual stimulation or arousal; or~~

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~~2. Acts of human masturbation, sexual intercourse or sodomy; or~~

~~a. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or~~

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~~b. Any act which is set forth in RCW 7.48A.010(2)(b), the Washington Moral Nuisances Act.~~

5.95.020 License required.

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

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B. It is unlawful for any ~~employee~~ or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of, an unlicensed ~~adult retail business~~.

5.95.030 License prohibited to certain classes.

No ~~license~~ shall be issued to:

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A. A natural ~~person~~ who has not attained the age of 21 years, except that ~~licenses~~ may be issued to ~~persons~~ who have attained the age of 18 years with respect to ~~adult retail businesses~~ where no intoxicating liquors are served or provided.

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B. A ~~person~~ whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the ~~licensee~~.

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C. A copartnership, unless all the members thereof are qualified to obtain a ~~license~~ as provided in this chapter. Such ~~license~~ shall be issued to the manager or agent thereof.

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D. A corporation, unless all the officers and directors thereof are qualified to obtain a ~~license~~ as provided herein. Such ~~license~~ shall be issued to the manager or agent thereof.

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5.95.040 Adult retail business license.

A. Any ~~person~~ desiring an ~~adult retail business~~ ~~adult retail business~~ ~~license~~ required under the provisions of this chapter shall file written application with the ~~city manager~~ ~~clerk~~, on forms provided by the ~~city manager~~ ~~clerk~~ for that purpose, in the name of the ~~person~~ or entity proposing to conduct an ~~adult retail business~~ on the business premises. A failure to provide all information required on the form will constitute an incomplete application and will not be processed. All applications shall be submitted on a form supplied by the City, which shall require the following information:

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1. For the ~~applicant~~ and for each ~~applicant control person~~, provide: names, any aliases or previous names, driver's license number (if any), Social Security number (if any), and business, mailing, and residential address, and business telephone number.

2. If a partnership, whether general or limited; and if a corporation, date and place of incorporation, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.

3. Whether the ~~applicant~~ or any partner, corporate officer, or director of the applicant holds any other ~~licenses~~ under this chapter or any ~~license~~ for similar adult entertainment or sexually oriented business, including adult cabarets, adult panorams or ~~adult retail businesses~~.

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businesses, from the cityCity 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 applicantapplicant and applicant control persons in owning or operating the adult entertainment or other sexually oriented businesses, providing names, addresses and dates of operation for such businesses, and whether any business license or adult entertainment license has been revoked or suspended, and the reason therefor.

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5. For the applicantapplicant and all applicant control personsapplicant-control-persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions, including the dates of conviction, nature of the crime, name and location of court and disposition.

6. For the applicantapplicant and all applicant control personsapplicant-control-persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application.

7. Authorization for the City, its agents and employees to seek information to confirm any statements set forth in the application.

8. The location and doing-business-as name of the proposed adult retail businessadult cabaret, 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.

9. Two two-inch by two-inch color photographs of the applicantapplicant and applicant control personsapplicant-control-persons, taken within six months of the date of application showing only the full face.

10. A complete set of fingerprints for the applicantapplicant or each applicant control personapplicant-control-person, by cityKenmore police department employees.

11. A scale drawing or diagram showing the configuration of the premises for the proposed adult retail businessadult-retail-business, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Public sales areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing.

An application for a license for an adult retail businessadult-retail-business shall include building plans which demonstrate conformance with this chapter.

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B. An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The city manager~~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 must be paid at the time of filing an application in order to defray the costs of processing the application.

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

E. If any person or entity acquires, subsequent to the issuance of an adult retail business~~adult retail 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 manager~~city clerk~~, no later than 21 days following such acquisition. The notice required shall include the information required for the original adult retail business~~adult retail business~~ license application.

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

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

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H. Upon receipt of the complete application and fee, the city manager~~clerk~~ shall provide copies to the appropriate City departments for their investigation and review to determine compliance of the proposed adult retail business~~adult retail business~~ with the laws and regulations which each department administers. Each department shall, within 20 days of the date of such application, inspect the application and premises and shall make a written report to the city manager~~clerk~~ whether such application and premises comply with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws, unless the 20-day period has lapsed. In the event 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.

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Any ~~adult retail business~~~~adult retail 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. A ~~department~~ shall recommend denial of a *license* under this subsection if it finds that the proposed ~~adult retail business~~~~adult retail 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 applicable laws.

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I. An ~~adult retail business~~~~adult retail business~~ *license* shall be issued by the ~~city manager~~~~clerk~~ within 30 days of the date of filing a complete *license* application and fee, unless the ~~city manager~~~~clerk~~ determines that the ~~applicant~~~~applicant~~ has failed to meet any of the requirements of this chapter or 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 for a *license*. The ~~city manager~~~~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~~~~applicant~~. If the ~~city manager~~~~clerk~~ finds that the ~~applicant~~~~applicant~~ has failed to meet any of the requirements for issuance of an ~~adult retail business~~~~adult retail business~~ *license*, the ~~city manager~~~~clerk~~ shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the ~~city manager~~~~clerk~~ fails to issue or deny the *license* within 30 days of the date of filing of a complete application and fee, the ~~applicant~~~~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 manager~~~~clerk~~ that the *license* has been denied, but in no event may the ~~city manager~~~~clerk~~ extend the application review time for more than an additional 20 days.

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~~5.95.050 Adult retail business license fees.~~

~~Any person desiring to obtain an adult retail license shall first pay a license fee pursuant to the City's adopted fee schedule.~~

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5.95.060 Appeal.

A. ~~Denial of License.~~ Any ~~person~~ aggrieved by the action of the ~~city manager~~~~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 manager~~~~clerk~~ within 21 days of notice of the refusal to issue or renew. The decision of the ~~city manager~~~~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.

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B. ~~Appeal to Superior Court.~~ 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.

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5.95.070 License term, assignment and renewals.

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

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B. Application for renewal of licenses issued hereunder shall be made to the clerk no later than 30 days prior to the expiration of adult retail 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 clerk an additional charge, computed as a percentage of the license fee, on applications not made on or before said date, as follows:

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

C. The clerk shall renew a license upon application unless the clerk is aware of facts that would disqualify the applicant from being issued the license for which he or she seeks renewal, and further, provided, that the application complies with all provisions of this chapter as now enacted or as the same may hereafter be amended.

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5.95.080 License suspension and revocation.

A. The city manager~~clerk~~ may, upon the recommendation of the city chief of police or his designee and as provided in subsection (B) of this section, suspend or revoke any license issued under the provisions of this chapter at any time where the same was procured by fraud or false representation of fact; or for the violation of, or failure to comply with, the provisions of this chapter or any of the provisions of this code~~the Kenmore Municipal Code~~ or any other similar local or State law by the licensee or by any of his servants, agents or employees~~employees~~ when the licensee knew or should have known of the violations committed by his servants, agents or employees~~employees~~; or for the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises, or the conviction of any of his servants, agents or employees~~employees~~ of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises in which the licensee's adult retail business~~his adult retail~~

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business is conducted when the licensee knew or should have known of the violations committed by his servants, agents or employeeemployees.

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B. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of 30 days upon the first such violation, 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.

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C. The city managerclerk shall provide at least 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 managerclerk shall be stayed during the pendency of any appeal except as provided in subsection (D) of this section.

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D. Where the cityCity of Kenmore building official or fire marshal or their designees or the King County health department find that any condition exists upon the premises of an adult retail businessadult retail business which constitutes a threat of immediate serious injury or damage to persons or property, said 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 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, however, that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal.

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5.95.090 Standards of conduct for adult retail businesses.

At any adult retail businessadult retail business, the following are required:

A. Admission must be restricted to persons of the age of 18 years or more. It is unlawful for any owner, operator, manager, employeeemployee or other person in charge of an adult retail businessadult retail business to knowingly permit or allow any person under the minimum age specified to be in or upon such premises.

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B. No photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals, and/or anus may be visible outside of the adult retail business.

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C. No member of the public shall be permitted at any time to enter into any of the nonpublic portions of the ~~adult retail business~~adult retail business, which shall include but are not limited to: dressing rooms, booths, or other rooms provided for the benefit of ~~employees~~employees, and the kitchen and storage areas; except that ~~persons~~ delivering goods and materials, food and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.

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5.95.100 Levels of lighting.

Sufficient lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times. A minimum lighting level of 30 lux horizontal, measured at 30 inches from the floor and on 10-foot centers, is hereby established for all areas of the ~~adult retail business~~adult retail business where members of the public are admitted.

5.95.110 Hours of operation for adult retail businesses.

It is unlawful for any ~~adult retail business~~adult retail business to be operated or otherwise open to the public between the hours of 2:00 a.m. and 10:00 a.m.

5.95.120 Violation a misdemeanor.

It is unlawful for any ~~person~~ to violate any provision or to fail to comply with any of the requirements of this chapter. Any ~~person~~ violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter shall upon conviction thereof be guilty of a gross misdemeanor and shall be punished by a fine of not more than \$5,000, or by imprisonment of a period of not more than one year, or by both such fine and imprisonment. Each such ~~person~~ shall be guilty of a separate offense for each and every day, or part of day, during which any violation of this chapter is committed, continued, or permitted.

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5.95.130 Nuisance declared.

A. ~~Public Nuisance~~. Any ~~adult retail business~~adult retail business operated, conducted, or maintained in violation of this chapter or any law of the ~~city~~City of Kenmore or the State of Washington shall be, and the same is, declared to be unlawful and a public nuisance. The city attorney may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any ~~person~~ from operating, conducting or maintaining an adult retail business contrary to the provisions of this chapter. All costs expended by the ~~city~~City in any such nuisance abatement or other action, including police investigation costs and attorney fees, shall be recoverable as part of any judgment in the ~~city's~~City's favor.

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B. ~~Moral Nuisance.~~ Any ~~adult retail business~~ ~~adult retail business~~ operated, conducted or maintained contrary to the provisions of Chapter 7.48A RCW, Moral Nuisance, shall be, and the same is declared to be, unlawful and a public and moral nuisance and the city attorney may, in addition to or in lieu of any other remedies set forth herein, commence an action or actions to abate, remove and enjoin such public and moral nuisance, or impose a civil penalty, in the manner provided by Chapter 7.48A RCW.

5.95.140 Additional enforcement.

The remedies found in this chapter are not exclusive, and the City may seek any other legal or equitable relief, including but not limited to enjoining any acts or practices which constitute or will constitute a violation of this title ~~any business license ordinance~~ or other regulations herein adopted.

5.95.150 Severability.

~~Should any section, paragraph, sentence, clause or phrase of this chapter, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this chapter be preempted by State or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this chapter or its application to other persons or circumstances.~~

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Chapter 5.100
SOCIAL CARD GAMES

Sections:

5.100.010 Social card game prohibited.

Pursuant to RCW [9.46.295](#), "social card games," as that term is defined in RCW [9.46.0282](#) as now in effect or may subsequently be amended, are prohibited within the [cityCity of Kenmore](#). Social card games shall not be permitted, maintained or operated as a commercial stimulant for the operation of any business primarily engaged in the selling of food or drink for consumption on the premises, nor for any other reason or under any other circumstances. Nothing in this chapter shall be construed to otherwise change the scope of any current license issued by the State Gambling Commission.

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**Chapter 5.105
KENMORE BUSINESS REGISTRATION PROGRAM**

Sections:

- 5.105.010 Chapter and purpose.
- 5.105.020 Definitions – General.
- 5.105.030 Business registration required – Posting.
- 5.105.040 Exceptions – Applicability of provisions.
- 5.105.050 Nonprofit businesses and organizations.
- 5.105.060 Program application and renewal.
- 5.105.070 Registration term or expiration.
- 5.105.080 Fee.
- 5.105.090 Late renewal.
- 5.105.100 Registration denial or revocation.
- 5.105.110 Violation – Civil infraction, enforcement.
- 5.105.120 Rules and rulings.

5.105.010 Chapter and purpose.

Maintenance of current information with respect to business, trade, service, commercial and professional activities carried on within the cityCity allows the cityCity to carry out the duties and authorities delegated to it by the Washington State Constitution and the laws of the State of Washington as a noncharter code city. Such information can best be accumulated and maintained on a current basis through the establishment of a program for the registration of such business activities. The business registration program ("program") is hereby established to protect the public and promote economic development and not intended to benefit any individual or class.

5.105.020 Definitions – General.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given in this section:

A. "Business," "occupation" or "pursuit" means and includes all activities, occupations, trades, pursuits, professions, and matters located or engaged in within the City with the object of gain, benefit, or advantage to the applicant for business registration or other person, directly or indirectly, whether part-time or full-time, whether resident or nonresident.

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B. "City" means the City of Kenmore, Washington.

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C. "Clerk" means such ~~City employees or agents as the city manager shall designate to administer this chapter, or any designee thereof.~~

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CD. "Engage in," "engages in" or "engaged in" business means commence, conduct or continue in business, and also means the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

DE. "Person," "firm," or "corporation," used interchangeably in this chapter, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, canvasser, peddler, solicitor, society, or any group of individuals acting as a unit, whether mutual cooperative, fraternal, nonprofit or otherwise, and includes the United States or any instrumentality thereof.

5.105.030 Business registration required – Posting.

A. Any ~~person~~ that engages in any ~~businessbusiness, occupationoccupation~~, home occupation (see Chapter ~~18.73~~ KMC), or pursuit in the ~~cityCity~~ shall register that business with the ~~city'sCity's~~ program. To register under the program a ~~person~~ must submit an application to the State Department of Revenue and pay the applicable registration fee.

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B. A ~~businessbusiness~~ located within the ~~cityCity~~ must be registered with the program.

C. A ~~businessbusiness~~ registration shall be posted in a conspicuous location at the place of the ~~businessbusiness~~.

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5.105.040 Exceptions – Applicability of provisions.

This chapter does not apply to:

A. The performance of governmental or proprietary functions by any instrumentality of the United States, the State of Washington, or any political subdivision thereof, including ~~cityCity of Kenmore~~ sponsored civic events.

B. The delivery of goods by vehicle to a customer or client by a business where the sale occurred on a ~~businessbusiness~~ premises outside of the ~~cityCity~~ and the only event occurring within the ~~cityCity~~ is a delivery.

C. Accredited public or private schools, colleges, or universities, as to their education endeavors only; churches and other religious bodies, as to their religious activities only; political groups and organizations as to their political activities only.

ATTACHMENT #1

D. Minors, a *person* under the age of 18, engaged in *businessbusiness* or operating a *businessbusiness* concern where no other *person* is employed by the minor.

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E. A *businessbusiness* with an annual gross income of \$12,000 or less.

F. Farmers selling fruit, vegetables, berries, eggs, or any farm produce or edibles raised, gathered, produced or manufactured by such *person*; provided, that nothing herein authorizes any *person* to sell, deliver or peddle any dairy product, meat, poultry, eel, fish, mollusk or shellfish without a license as otherwise required by the State of Washington.

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G. Where preempted by federal or State constitutions or laws.

5.105.050 Nonprofit businesses and organizations.

Organizations exempt from taxation under 26 USC 501(c)(3) and (4) must register under the *businessbusiness* registration program, but shall be exempt from paying the registration fee. This shall not constitute an exemption from all other applicable taxes and fees. Such organization must be able to show satisfactory proof of such status to the *cityCity*.

5.105.060 Program application and renewal.

A. A *person* shall register a *businessbusiness* with the program by submitting an application to the State Department of Revenue (with its Business Licensing Service), in coordination with the *city managerclerk*, giving such information as is deemed reasonably necessary to enable the enforcement of this chapter. *BusinessesBusinesses* that are not required to be registered because they do not exceed the annual gross income threshold may be voluntarily registered with the program, in the same manner set forth in KMC 5.105.030.

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B. Only one registration is necessary if a *businessbusiness* is located at two or more separate locations within the *cityCity*, if the same *businessbusiness* name and type of *businessbusiness* is operated at the separate locations in the *cityCity*.

C. If more than one *businessbusiness* is conducted or operated on premises, a separate *businessbusiness* registration shall be required for each *businessbusiness* that meets the requirements for *businessbusiness* registration. Each *businessbusiness* owner must separately register a *businessbusiness* with the program.

D. A *businessbusiness* registration is nontransferable. A *person* engaged in *businessbusiness* within the *cityCity* shall notify the *city managerclerk* and State Department of Revenue of a change of *businessbusiness* location within 30 days of the location change or by the next registration renewal date, whichever date occurs first.

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ATTACHMENT #1

E. A ~~person~~ who has registered a ~~business~~~~business~~ under the ~~city's~~~~City's~~ program shall renew the registration on an annual basis, in the same manner as the original application for registration including payment of fees.

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F. A ~~person~~ engaged in ~~business~~~~business~~ within the ~~city~~~~City~~ must comply with all applicable City ordinances and code provisions, and State and federal laws.

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5.105.070 Registration term or expiration.

~~Business~~~~Business~~ registration shall be valid for a term of 12 months, and shall expire on the date determined by the Department of Revenue, in coordination with the City.

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5.105.080 Fee.

A. The fee to register with the City's program, or renew such registration, shall be as set forth in a fee resolution adopted by the city council.

B. From July 1, 2013, to December 31, 2013, program registration fees may be prorated to coincide with the Washington State Department of Revenue's (its Business Licensing Service) registration term of 12 months. The prorated fee shall be as set forth in a fee resolution adopted by the city council. Thereafter, all registration fees shall be the full amount identified in subsection A of this section.

5.105.090 Late renewal.

Each ~~business~~~~business~~ registration issued must be renewed annually on or before the expiration date, or expiration of any prorated period. Failure to renew a ~~business~~~~business~~ registration by the expiration date may result in an increase in the amount of the renewal fee by 50 percent.

5.105.100 Registration denial or revocation.

A. An application for registration required under this chapter may be denied or revoked by the ~~city~~~~City~~ based on any of the grounds provided below:

1. If the ~~person~~ who obtains the registration or any of the ~~business~~~~business~~ officers, directors, agents, owners or employees of the ~~business~~~~business~~ fail to comply with the requirements of this chapter.

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2. If a ~~person~~ procures registration by fraud or misrepresentation of fact, or the ~~person~~ who obtains the registration or any of the ~~business~~~~business~~ officers, directors, agents, owners or employees of the ~~business~~~~business~~ obtain registration so as to practice some illegal act or some act injurious to the public health, safety and welfare.

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3. Whenever a ~~person~~ fails or refuses to pay the registration or renewal fee.

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B. The city~~City~~ shall not deny or revoke a business~~business~~ registration without cause.

5.105.110 Violation – Civil infraction, enforcement.

A. A violation of this chapter shall constitute a civil infraction. A person who violates any provision of this chapter shall be subject to a civil fine in an amount not to exceed \$100.00.

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B. The city manager~~clerk~~ and officers authorized to provide police services to the city~~City~~ shall enforce this chapter and are authorized to issue civil infractions for violations of this chapter. The disposition of a civil infraction issued under this chapter shall follow the procedures adopted under the following statutes:

1. A notice of civil infraction issued under this chapter shall comply with the procedures of RCW 46.63.060(1), (2)(a) through (g) and (3), hereby adopted by reference as if set forth in full. A response to the notice of civil infraction and/or request for hearing shall comply with RCW 46.63.070(1) through (4) and (6), hereby adopted by reference as if set forth in full.

2. RCW 46.63.090 and 46.63.100, which regulate hearings on contested infractions and hearings to explain mitigating circumstances, are hereby adopted by reference as if set forth in full.

3. The phrase "traffic infraction" referenced in the above-cited statutes shall mean a "civil infraction" issued under this chapter.

C. A civil infraction issued under this chapter shall be filed with the King County district court, which shall have the exclusive jurisdiction to hear and determine the same. Rules of procedures for the conduct of hearings filed under this chapter may be established by rule of the court.

5.105.120 Rules and rulings.

The city manager may, from time to time, adopt, publish and enforce rules and regulations not inconsistent with this chapter or with State law. The purpose of such rules and regulations is to carry out the provisions of this chapter. The city manager may also issue letter rulings from time to time which are applicable only to specific businesses~~businesses~~. Such administrative rulings shall be binding on the city~~City~~ and the applicable business~~business~~.

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ATTACHMENT #2

CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 15-_____

**AN ORDINANCE OF THE CITY OF KENMMORE, WASHINGTON,
RELATING TO HEAVY MANUFACTURING BUSINESSES AND
ACTIVITIES; CONTROLLING NOISE LEVELS OF SUCH BUSINESSES
AND ACTIVITIES; ESTABLISHING HOURS OF OPERATION FOR
SUCH BUSINESSES AND ACTIVITIES; AND ADDING A NEW
CHAPTER TO THE KENMORE MUNICIPAL CODE.**

WHEREAS, businesses engaged in heavy manufacturing, which includes the mechanical, physical or chemical transformation of materials, substances, or components into new products, are likely to generate noise that adversely affects the health, safety and welfare of the residents and citizens of the City; and

WHEREAS, the City has prohibited new heavy manufacturing uses in all business and commercial zones of the City; and

WHEREAS, despite such use prohibition, heavy manufacturing businesses are currently located and operating in some business and commercial zones of the City; and

WHEREAS, existing City ordinances have not adequately protected the residents and citizens of the City from the adverse effects of heavy manufacturing noise, particularly during nighttime hours; and

WHEREAS, requiring the owners and operators of heavy manufacturing businesses and activities to comply with noise level requirements of WAC Chapter 173-60 and to restrict operations to daytime hours will reduce to a great extent the adverse effects of heavy manufacturing operations and activities; and

WHEREAS, the City Council desires to require such owners and operators to comply with such noise level requirements and to restrict the hours of operation of heavy manufacturing operations and activities;

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

Section 1. New Chapter. A new chapter 8.44 is added to the Kenmore Municipal Code as follows:

8.44.010 Purpose.

The City Council finds that inadequately controlled noise generated by heavy manufacturing businesses and activities in the City adversely affects the health,

ATTACHMENT #2

safety and welfare of the residents and citizens of the City. Existing City ordinances, however, have not adequately protected the residents and citizens of the City from the adverse effects of such noise, particularly during nighttime hours. The Washington State Department of Ecology has adopted maximum noise levels for specific environments and properties to protect against adverse effects of noise. However, those noise levels are enforceable only with sound level meters and sound level programs, which are expensive to establish and difficult to enforce. The purpose of this chapter is to supplement existing City authority to control noise generated by heaving manufacturing businesses and activities in the City.

8.44.020 Application of chapter.

The rules and regulations of this chapter shall govern the operations and activities of *heavy manufacturing*, as that term is defined in KMC 18.20.1676. The standards and requirements of this chapter shall be complied with immediately, unless a compliance schedule or deadline is established as part of the standard or requirement.

8.44.030 Noise levels.

A. Noise levels for *heavy manufacturing* businesses and activities shall comply with WAC Chapter 173-60. No person shall cause or permit noise to intrude onto other property in violation of WAC Chapter 173-60 or this chapter. The owner of the business or operator of the activity shall ensure that the noise levels are monitored by a technician with the qualifications contained in WAC Chapter 173-58, using instruments that meet the requirements of WAC Chapter 173-58, at the boundary line of the lot or lots on which the business is located or the activities are conducted. If the noise exceeds the permissible levels, the owner or operator shall take immediate action to satisfy the noise level requirements, and to prevent noise level violations in the future. At least quarterly, or more frequently if requested by the *city manager* (as defined in KMC 18.20.468), the owner or operator shall provide a report of the noise monitoring.

B. Each owner or operator of *heavy manufacturing* businesses or activities must file with the *city manager* a proposed plan for monitoring the noise levels of such businesses or activities, in such form and with such information and contents as is required by the *city manager*. The owner or operator must modify the monitoring plan as requested and required by the *city manager*. The owner or operator must comply with the monitoring plan.

8.44.040 Hours of operation.

Heavy manufacturing businesses and activities may operate between the hours of 6:00 a.m. and 10:00 p.m. on Monday through Friday, and 8:00 a.m. and 9:00 p.m. on Saturday and Sunday.

ATTACHMENT #2

8.44.050 Enforcement and violations.

Violations of this chapter and the plan required by KMC 8.44.030 shall be processed pursuant to KMC Chapter 1.20.

Section 2. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of the publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE
___ DAY OF ___, 20__.

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. 15-0____
DATE OF PUBLICATION:
EFFECTIVE DATE:

ATTACHMENT #3

Chapter 173-60 WAC

Last Update: 12/6/00

MAXIMUM ENVIRONMENTAL NOISE LEVELS

Chapter Listing

WAC Sections

173-60-010 Authority and purpose.
173-60-020 Definitions.
173-60-030 Identification of environments.
173-60-040 Maximum permissible environmental noise levels.
173-60-050 Exemptions.
173-60-060 Nuisance regulations not prohibited.
173-60-070 Reserved.
173-60-080 Variances and implementation schedules.
173-60-090 Enforcement policy.
173-60-100 Appeals.
173-60-110 Cooperation with local government.
173-60-120 Effective date.

173-60-010

Authority and purpose.

These rules are adopted pursuant to chapter 70.107 RCW, the Noise Control Act of 1974, in order to establish maximum noise levels permissible in identified environments, and thereby to provide use standards relating to the reception of noise within such environments. Vessels, as defined in RCW 88.12.010(21) and regulated for noise under chapter 88.12 RCW (Regulation of recreational vessels), shall be exempt from chapter 173-60 WAC.

[Statutory Authority: Chapter 70.107 RCW. WSR 94-12-001 (Order 92-41), § 173-60-010, filed 5/18/94, effective 6/18/94; Order 74-32, § 173-60-010, filed 4/22/75, effective 9/1/75.]

173-60-020

Definitions.

- (1) "Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.
- (2) "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.
- (3) "Department" means the department of ecology.
- (4) "Director" means the director of the department of ecology.
- (5) "Distribution facilities" means any facility used for distribution of commodities to final consumers, including facilities of utilities that convey water, waste water, natural gas, and electricity.

ATTACHMENT #3

- (6) "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.
 - (7) "Existing" means a process, event, or activity in an established area, producing sound subject to or exempt from this chapter, prior to the effective date of September 1, 1975.
 - (8) "Local government" means county or city government or any combination of the two.
 - (9) "Noise" means the intensity, duration and character of sounds, from any and all sources.
 - (10) "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.
 - (11) "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.
 - (12) "Racing event" means any motor vehicle competition conducted under a permit issued by a governmental authority having jurisdiction or, if such permit is not required, then under the auspices of a recognized sanctioning body.
 - (13) "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.
 - (14) "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute Specification S1.4-1971.
- [Statutory Authority: Chapter 70.107 RCW. WSR 94-12-001 (Order 92-41), § 173-60-020, filed 5/18/94, effective 6/18/94; WSR 83-15-046 (Order DE 82-42), § 173-60-020, filed 7/19/83; Order DE 77-1, § 173-60-020, filed 6/1/77; Order 74-32, § 173-60-020, filed 4/22/75, effective 9/1/75.]

173-60-030

Identification of environments.

- (1) Except when included within specific prior designations as provided in subsections (2), (3), and (4) of this section, the EDNA of any property shall be based on the following typical uses, taking into consideration the present, future, and historical usage, as well as the usage of adjacent and other lands in the vicinity.
 - (a) Class A EDNA - Lands where human beings reside and sleep. Typically, Class A EDNA will be the following types of property used for human habitation:
 - (i) Residential
 - (ii) Multiple family living accommodations
 - (iii) Recreational and entertainment, (e.g., camps, parks, camping facilities, and resorts)
 - (iv) Community service, (e.g., orphanages, homes for the aged, hospitals, health and correctional facilities)
 - (b) Class B EDNA - Lands involving uses requiring protection against noise interference with speech. Typically, Class B EDNA will be the following types of property:
 - (i) Commercial living accommodations
 - (ii) Commercial dining establishments
 - (iii) Motor vehicle services
 - (iv) Retail services
 - (v) Banks and office buildings
 - (vi) Miscellaneous commercial services, property not used for human habitation
 - (vii) Recreation and entertainment, property not used for human habitation (e.g., theaters, stadiums, fairgrounds, and amusement parks)

ATTACHMENT #3

(viii) Community services, property not used for human habitation (e.g., educational, religious, governmental, cultural and recreational facilities).

(c) Class C EDNA - Lands involving economic activities of such a nature that higher noise levels than experienced in other areas is normally to be anticipated. Persons working in these areas are normally covered by noise control regulations of the department of labor and industries. Uses typical of Class A EDNA are generally not permitted within such areas. Typically, Class C EDNA will be the following types of property:

(i) Storage, warehouse, and distribution facilities.

(ii) Industrial property used for the production and fabrication of durable and nondurable man-made goods

(iii) Agricultural and silvicultural property used for the production of crops, wood products, or livestock.

(d) Where there is neither a zoning ordinance in effect nor an adopted comprehensive plan, the legislative authority of local government may, by ordinance or resolution, designate specifically described EDNAs which conform to the above use criteria and, upon departmental approval, EDNAs so designated shall be as set forth in such local determination.

(e) Where no specific prior designation of EDNAs has been made, the appropriate EDNA for properties involved in any enforcement activity will be determined by the investigating official on the basis of the criteria of (a), (b), and (c) of this subsection.

(2) In areas covered by a local zoning ordinance, the legislative authority of the local government may, by ordinance or resolution designate EDNAs to conform with the zoning ordinance as follows:

(a) Residential zones - Class A EDNA

(b) Commercial zones - Class B EDNA

(c) Industrial zones - Class C EDNA

Upon approval by the department, EDNAs so designated shall be as set forth in such local determination. EDNA designations shall be amended as necessary to conform to zone changes under the zoning ordinance.

(3) In areas not covered by a local zoning ordinance but within the coverage of an adopted comprehensive plan the legislative authority of the local government may, by ordinance or resolution designate EDNAs to conform with the comprehensive plan as follows:

(a) Residential areas - Class A EDNA

(b) Commercial areas - Class B EDNA

(c) Industrial areas - Class C EDNA

Upon approval by the department EDNAs so designated shall be as set forth in such local determination. EDNA designations shall be amended as necessary to conform to changes in the comprehensive plan.

(4) The department recognizes that on certain lands, serenity, tranquillity, or quiet are an essential part of the quality of the environment and serve an important public need. Special designation of such lands with appropriate noise level standards by local government may be adopted subject to approval by the department. The director may make such special designation pursuant to the procedures of the Administrative Procedure Act, chapter 34.04 RCW.

[Order 74-32, § 173-60-030, filed 4/22/75, effective 9/1/75.]

173-60-040

Maximum permissible environmental noise levels.

ATTACHMENT #3

(1) No person shall cause or permit noise to intrude into the property of another person which noise exceeds the maximum permissible noise levels set forth below in this section.

(2)(a) The noise limitations established are as set forth in the following table after any applicable adjustments provided for herein are applied.

	EDNA OF NOISE SOURCE	EDNA OF RECEIVING PROPERTY		
		Class A	Class B	Class C
CLASS A	55 dBA	57 dBA	60 dBA	
CLASS B	57	60	65	
CLASS C	60	65	70	

(b) Between the hours of 10:00 p.m. and 7:00 a.m. the noise limitations of the foregoing table shall be reduced by 10 dBA for receiving property within Class A EDNAs.

(c) At any hour of the day or night the applicable noise limitations in (a) and (b) above may be exceeded for any receiving property by no more than:

- (i) 5 dBA for a total of 15 minutes in any one-hour period; or
- (ii) 10 dBA for a total of 5 minutes in any one-hour period; or
- (iii) 15 dBA for a total of 1.5 minutes in any one-hour period.

[Order 74-32, § 173-60-040, filed 4/22/75, effective 9/1/75.]

173-60-050

Exemptions.

(1) The following shall be exempt from the provisions of WAC 173-60-040 between the hours of 7:00 a.m. and 10:00 p.m.:

- (a) Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances.
- (b) Sounds created by the discharge of firearms on authorized shooting ranges.
- (c) Sounds created by blasting.
- (d) Sounds created by aircraft engine testing and maintenance not related to flight operations: Provided, That aircraft testing and maintenance shall be conducted at remote sites whenever possible.
- (e) Sounds created by the installation or repair of essential utility services.

(2) The following shall be exempt from the provisions of WAC 173-60-040 (2)(b):

- (a) Noise from electrical substations and existing stationary equipment used in the conveyance of water, waste water, and natural gas by a utility.
- (b) Noise from existing industrial installations which exceed the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours, which would affect exemptions under this regulation, require approval of the department.

(3) The following shall be exempt from the provisions of WAC 173-60-040, except insofar as such provisions relate to the reception of noise within Class A EDNAs between the hours of 10:00 p.m. and 7:00 a.m.

- (a) Sounds originating from temporary construction sites as a result of construction activity.
- (b) Sounds originating from forest harvesting and silvicultural activity.
- (4) The following shall be exempt from all provisions of WAC 173-60-040:
- (a) Sounds created by motor vehicles when regulated by chapter 173-62 WAC.

ATTACHMENT #3

- (b) Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations.
 - (c) Sounds created by surface carriers engaged in interstate commerce by railroad.
 - (d) Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes, and carillons.
 - (e) Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.
 - (f) Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health safety or welfare of the community.
 - (g) Sounds originating from motor vehicle racing events at existing authorized facilities.
 - (h) Sounds originating from officially sanctioned parades and other public events.
 - (i) Sounds emitted from petroleum refinery boilers during startup of said boilers: Provided, That the startup operation is performed during daytime hours whenever possible.
 - (j) Sounds created by the discharge of firearms in the course of hunting.
 - (k) Sounds caused by natural phenomena and unamplified human voices.
 - (l) Sounds created by motor vehicles, licensed or unlicensed, when operated off public highways EXCEPT when such sounds are received in Class A EDNAs.
 - (m) Sounds originating from existing natural gas transmission and distribution facilities. However, in circumstances where such sounds impact EDNA Class A environments and complaints are received, the director or his designee may take action to abate by application of EDNA Class C source limits to the facility under the requirements of WAC 173-60-050(5).
- (6) Nothing in these exemptions is intended to preclude the department from requiring installation of the best available noise abatement technology consistent with economic feasibility. The establishment of any such requirement shall be subject to the provisions of the Administrative Procedure Act, chapter 34.04 RCW.
[Statutory Authority: Chapter 70.107 RCW. WSR 94-12-001 (Order 92-41), § 173-60-050, filed 5/18/94, effective 6/18/94; WSR 83-15-046 (Order DE 82-42), § 173-60-050, filed 7/19/83; Order DE 77-1, § 173-60-050, filed 6/2/77; Order 75-18, § 173-60-050, filed 8/1/75; Order 74-32, § 173-60-050, filed 4/22/75, effective 9/1/75.]

173-60-060

Nuisance regulations not prohibited.

Nothing in this chapter or the exemptions provided herein, shall be construed as preventing local government from regulating noise from any source as a nuisance. Local resolutions, ordinances, rules or regulations regulating noise on such a basis shall not be deemed inconsistent with this chapter by the department.

[Order 74-32, § 173-60-060, filed 4/22/75, effective 9/1/75.]

173-60-070

Reserved.

Reserved.

[Statutory Authority: Chapter 70.107 RCW. WSR 00-24-134 (Order 00-24), § 173-60-070, filed 12/6/00, effective 1/6/01; WSR 94-12-001 (Order 92-41), § 173-60-070, filed 5/18/94, effective 6/18/94; Order DE 77-1, § 173-60-070, filed 6/1/77; Order 74-32, § 173-60-070, filed 4/22/75, effective 9/1/75.]

ATTACHMENT #3

173-60-080

Variances and implementation schedules.

(1) Variances may be granted to any person from any particular requirement of this chapter, if findings are made that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment [encroachment] upon an existing noise source, or because of nonavailability of feasible technology or control methods. Any such variance or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances.

(2) An implementation schedule for achieving compliance with this chapter shall be incorporated into any variance issued.

(3) Variances shall be issued only upon application in writing and after providing such information as may be requested. No variance shall be issued for a period of more than 30 days except upon due notice to the public with opportunity to comment. Public hearings may be held, when substantial public interest is shown, at the discretion of the issuing agency.

(4) Sources of noise, subject to this chapter, upon which construction begins after the effective date hereof shall immediately comply with the requirements of this chapter, except in extraordinary circumstances where overriding considerations of public interest dictate the issuance of a variance.

[Order 74-32, § 173-60-080, filed 4/22/75, effective 9/1/75.]

173-60-090

Enforcement policy.

Noise measurement for the purposes of enforcing the provisions of WAC 173-060-040 shall be measured in dBA with a sound level meter with the point of measurement being at any point within the receiving property. Such enforcement shall be undertaken only upon receipt of a complaint made by a person who resides, owns property, or is employed in the area affected by the noise complained of, EXCEPT for parks, recreational areas, and wildlife sanctuaries. For enforcement purposes pursuant to RCW 70.107.050, each day, defined as the 24-hour period beginning at 12:01 a.m., in which violation of the noise control regulations (chapter 173-60 WAC) occurs, shall constitute a separate violation.

[Order DE 76-5, § 173-60-090, filed 2/5/76; Order 74-32, § 173-60-090, filed 4/22/75, effective 9/1/75.]

173-60-100

Appeals.

Any person aggrieved by any decision of the department in relation to the enforcement of the maximum permissible noise levels provided for herein, the granting or denial of a variance or the approval or disapproval of a local resolution or ordinance for noise abatement and control may appeal to the pollution control hearings board pursuant to chapter 43.21B RCW under the procedures of chapter 371-08 WAC.

ATTACHMENT #3

[Order 74-32, § 173-60-100, filed 4/22/75, effective 9/1/75.]

173-60-110

Cooperation with local government.

(1) The department conceives the function of noise abatement and control to be primarily the role of local government and intends actively to encourage local government to adopt measures for noise abatement and control. Wherever such measures are made effective and are being actively enforced, the department does not intend to engage directly in enforcement activities.

(2) No ordinance or resolution of any local government which imposes noise control requirements differing from those adopted by the department shall be effective unless and until approved by the director. If approval is denied, the department, following submission of such local ordinance or resolution to the department, shall deliver its statement or order of denial, designating in detail the specific provision(s) found to be objectionable and the precise grounds upon which the denial is based, and shall submit to the local government, the department's suggested modification.

(3) The department shall encourage all local governments enforcing noise ordinances pursuant to this chapter to consider noise criteria and land use planning and zoning.

[Statutory Authority: Chapter 70.107 RCW. WSR 87-06-056 (Order 86-40), § 173-60-110, filed 3/4/87; Order 74-32, § 173-60-110, filed 4/22/75, effective 9/1/75.]

173-60-120

Effective date.

This chapter shall become effective on September 1, 1975. It is the intention of the department to periodically review the provisions hereof as new information becomes available for the purpose of making amendments as appropriate.

[Order 74-32, § 173-60-120, filed 4/22/75, effective 9/1/75.]

ATTACHMENT #4

Chapter 173-58 WAC

Last Update: 5/18/94

SOUND LEVEL MEASUREMENT PROCEDURES

Chapter Listing

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173-58-010

Introduction.

(1) Authority. Statutory authority for the guidance and direction contained in these procedures is authorized by chapter 70.107 RCW, the Noise Control Act of 1974.

(2) Purpose. The purpose of these rules is to establish standardized procedures for the measurement of sound levels of sources regulated by the department of ecology, including, but not limited to, environmental noise, motor racing vehicles, construction, float planes, railroads, and aircraft engine testing. Vessels, as defined in RCW 88.12.010 (21) and regulated for noise under chapter 88.12 RCW (Regulation of recreational vessels), shall be exempt from chapter 173-58 WAC.

(3) Personnel. For the purposes of enforcement, the measurements shall be conducted only by persons qualified by training in the use of sound measuring equipment and proper site selection.

(4) These regulations will be amended as needed to include any new instrumentation, equipment, or procedures which the department shall deem necessary to accurately measure sound levels for enforcement purposes.

[Statutory Authority: Chapter 70.107 RCW. WSR 94-12-001 (Order 92-41), § 173-58-010, filed 5/18/94, effective 6/18/94; WSR 79-04-033 (Order DE 78-19), § 173-58-010, filed 3/22/79.]

173-58-020

Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.

(2) "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter.

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- (3) "Department" means the department of ecology.
- (4) "Director" means the director of the department of ecology.
- (5) "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.
- (6) "Impulse sound" means either a single pressure peak or a single burst of multiple pressure peaks which occur for a duration of less than one second as measured on a peak unweighted sound level meter.
- (7) "Local government" means county or city government or any combination of the two.
- (8) "Noise" means the intensity, duration and character of sounds, from any and all sources.
- (9) "Operator" means any person who is in actual physical or electronic control of a motor vehicle, aircraft, off highway vehicle, or any other engine driven vehicle.
- (10) "Person" means any individual, corporation, partnership, association, governmental body, state agency, or other entity whatsoever.
- (11) "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.
- (12) "Racing event" means any motor vehicle competition conducted under a permit issued by a governmental authority having jurisdiction or, if such permit is not required, then under the auspices of a recognized sanctioning body.
- (13) "Receiving property" means real property within which the maximum permissible noise levels specified in WAC 173-60-040 shall not be exceeded from sources outside such property.
- (14) "Shoreline" means the existing intersection of water with the ground surface or with any permanent, shore-connected facility.
- (15) "Sound level meter" means a device or combination of devices which measures sound pressure levels and conforms to Type 1, Type 2, or Type 3 standards as specified in the American National Standards Institute Specification S1.4-1971. An impulse sound level meter shall be a peak or impulse, unweighted sound level meter which is capable of measuring impulse sound in conformance with the Type 1 or Type 2 specifications of ANSI S1.4-1971. [Statutory Authority: Chapter 70.107 RCW. WSR 94-12-001 (Order 92-41), § 173-58-020, filed 5/18/94, effective 6/18/94; WSR 79-04-033 (Order DE 78-19), § 173-58-020, filed 3/22/79.]

173-58-030

Instrumentation.

The following instrumentation and equipment shall be used for the measurement procedures established in this chapter:

- (1) Sound level meter. The sound level meter shall meet the Type 1, Type 2, or Type 3 requirements of ANSI S1.4-1971. The meter weighting and response mode will be set as required in the specific procedure used. The sound level meter shall be returned to the manufacturer or a qualified laboratory at least once a year, to be calibrated to standards traceable to the National Bureau of Standards.
- Type 1, Type 2, or Type 3 sound level meters shall be used for any initial inspection procedures, but only Type 1 or Type 2 sound level meters shall be used for the measurement of sound levels for enforcement purposes.
- (2) Sound level calibrator. An acoustically coupled calibrator shall be used periodically to assure the accuracy of the sound level meter and microphone. The calibrator shall be returned to the manufacturer or a qualified laboratory at least once a year to be calibrated to standards traceable to the National Bureau of Standards.

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(3) Tachometer. The tachometer shall be either one of two types: Electric or vibrating reed. The electric tachometer shall be an inductive pickup type for easy attachment to any spark plug cable, contain its own internal power supply, and shall meet SAE J197 specifications for off road electric tachometers. The vibrating reed tachometer shall be designed for use on any internal combustion engine. Calibration accuracy for both types of tachometers shall be at least ± 3 percent of full scale reading. All tachometers shall be calibrated at least once a year in accordance with the manufacturer's calibration procedures.

(4) Windscreen. A windscreen of open cell foam, cloth, or other acoustically invisible material as shall be provided by the manufacturer, shall be placed over the microphone to protect it from moisture, exhaust gases and wind effects.

(5) Anemometer. An anemometer shall be used periodically during measurements to test the wind speed.

[Statutory Authority: Chapter 70.107 RCW. WSR 79-04-033 (Order DE 78-19), § 173-58-030, filed 3/22/79.]

173-58-040

Ambient conditions.

The following ambient conditions shall be observed during measurements and shall determine whether testing is to occur or not:

(1) Wind. Sound level measurements shall not be made when the wind speed is in excess of:

- (a) 20 mph (32 km/hr) for the close proximity test, WAC 173-58-080;
- (b) 12 mph (19 km/hr) for all other tests.

(2) Precipitation. Sound level measurements shall not be made when precipitation is falling in such a way as to affect the equipment or the measurement readings.

(3) Background sound level. Sound level measurements shall not be made when the difference between the background sound level and the level of the measured sound source is less than 10 dBA, unless, the measurement personnel are technically qualified to logarithmically subtract the background level from the measured source's sound level.

[Statutory Authority: Chapter 70.107 RCW. WSR 79-04-033 (Order DE 78-19), § 173-58-040, filed 3/22/79.]

173-58-050

Measurement equipment preparation and use.

(1) Battery check. A battery check shall be conducted on all instruments before field calibration and measurement.

(2) Calibration. Sound level meters shall be field calibrated (using procedures described in the manufacturer's instruction manual) at the beginning and end of each measurement period, and at intervals not exceeding two hours when the instrument is used for more than a two-hour period.

(3) Microphone orientation. The microphone shall be oriented with respect to the sound source as described in the manufacturer's instruction manual.

[Statutory Authority: Chapter 70.107 RCW. WSR 79-04-033 (Order DE 78-19), § 173-58-050, filed 3/22/79.]

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173-58-060

Equipment variation allowances.

Due to unavoidable variations in measurement sites and test instruments, the following allowances shall be made for the respective sound level meters:

± 1 dBA for Type 1 sound level meters

± 2 dBA for Type 2 sound level meters

This tolerance value shall be applied, after all necessary calculations have been made, to the final reported sound level for the measured sound source.

[Statutory Authority: Chapter 70.107 RCW. WSR 79-04-033 (Order DE 78-19), § 173-58-060, filed 3/22/79.]

173-58-070

Environmental noise measurement procedure.

(Reserved.)

[Statutory Authority: Chapter 70.107 RCW. WSR 79-04-033 (Order DE 78-19), § 173-58-070, filed 3/22/79.]

173-58-080

Close proximity exhaust system sound level measurement procedure.

This section establishes specific procedures for the measurement of sound levels from exhaust systems at a distance of 20 inches (0.5 meter) from the exhaust outlet. The procedures of subsections (3), (4) and (5) of this section shall not be used for exhaust systems which utilize the introduction of water to the exhaust gas flow for the purpose of muffling the exhaust noise levels, or systems which exhaust the gas flow directly into water.

(1) For the purposes of this section "vehicle" means any motor driven contrivance used as a means of transportation or recreation off of public highways.

(2) Initial inspection. An initial inspection of the vehicle exhaust system shall be conducted to determine if the following defects or modifications exist:

- (a) The absence of a muffler;
- (b) The presence of a muffler cut-out, bypass, or similar device which is not standard or normal equipment for the exhaust system being inspected;
- (c) Defects in the exhaust system including, but not limited to, pinched outlets, and holes or rusted through areas of the muffler or pipes;
- (d) The presence of equipment which will produce excessive or unusual noise from the exhaust system.

If the above defects are observed and are a violation of the muffler integrity standards established for the type of vehicle which is being inspected, then a citation shall be issued in accordance with the enforcement section of the applicable regulation.

An evaluation of the vehicle sound level shall also be made by the enforcement officer, using the human ear as a sensing device.

If the exhaust noise is discernibly louder than the engine noise, or if any of the defects or modifications described above exist but are not violations of applicable regulations, the

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enforcement officer shall request the vehicle operator to submit the vehicle to any measurement procedures described in this chapter which are applicable to the type of vehicle being inspected. If the operator refuses to submit the vehicle to these measurement procedures, he shall be in violation of this chapter.

(3) Test site and instrumentation set up. The test site and instrumentation shall be set up as follows:

(a) The test site shall be a flat, open area free of large, sound-reflecting surfaces (other than the surface on which the vehicle is resting), such as signboards, buildings, large docks, hillsides, or other vehicles, located within a 16-foot (5-meter) radius of the vehicle being tested and the location of the microphone. The vehicle shall not be on a hoist, rack, or over a pit. Testing shall not occur within a shop or building. Nobody shall stand in the measurement area, except the observer and the vehicle operator.

(b) The microphone shall be at the same height as the center of the exhaust outlet if possible, but no closer to any surface than 8 inches (0.2 meter). The microphone shall be positioned with its longitudinal axis parallel to the ground, 20 ± 1 inches (0.5 meter) from the edge of the exhaust outlet, and 45 ± 10 degrees from the axis of the outlet. For exhaust outlets located inboard from the vehicle body, the microphone shall be located at the above specified angle and at least 8 inches (0.2 meter) from the nearest part of the vehicle.

For vehicles provided with exhaust outlets spaced more than 12 inches (0.3 meter) apart, measurements shall be made for each outlet as if it were the only one, and the highest level shall be recorded. If the exhaust outlets are less than twelve inches (0.3 meter) apart, a single measurement shall be made for any one of the outlets.

For vehicles with a vertical exhaust, the microphone shall be placed at a height of 48 ± 2 inches (1.2 meter). Its axis shall be vertical and oriented upwards. It shall be placed at a distance of 20 ± 1 inches (0.5 meter) from the side of the vehicle nearest the exhaust outlet.

For vehicles with the exhaust system outlet near the engine, the engine hood (if one exists) should be closed as much as possible to reduce engine noise.

If a measuring device is attached to the exhaust outlet and the microphone to maintain proper distance, insure that no vibrations from the vehicle shall be transmitted to the instrument.

(4) Vehicle operation. The vehicle shall be operated as follows:

(a) Controlled ignition vehicles. The engine shall be operated at a normal operating temperature with transmission in park or neutral. Sound level measurements shall be made at three-fourths (75 percent) of the RPM for rated horsepower ± 100 RPM of meter reading.

(b) Vehicles with motorcycle engines. The engine shall be operated at normal operating temperatures with the transmission in neutral. If no neutral is provided, the vehicle shall be operated either with the rear wheel or wheels 2-4 inches (5-10 centimeters) clear of the ground, or with the drive chain or belt removed. The sound level measurement shall be made with the engine speed stabilized at one of the following values:

(i) If the engine data is available, test the vehicle at one-half (50 percent) of the RPM for maximum rated horsepower ± 100 RPM.

(ii) If the engine data is not available, and if the vehicle has a tachometer showing the manufacturer's recommended maximum engine speed ("red line"), test the vehicle at 60 percent of the "red line" RPM ± 100 RPM.

(iii) If the engine data and red line RPM are not available, test the vehicle at:

(A) 3500 ± 100 RPM for engines with total cylinder displacement between 0-950 cc (0-58 in.3).

(B) $2800 \text{ RPM} \pm 100 \text{ RPM}$ for engines with total cylinder displacement greater than 950 cc (58 in.3).

(c) Diesel engine vehicles. The engine shall be operated at normal operating temperatures with transmission in park or neutral. Sound level measurements shall be made at the vehicle's

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maximum governed no-load speed. If the engine is not provided with a governor, the vehicle shall be operated in the same manner as a vehicle with a controlled ignition.

(5) Measurement. The exhaust system sound level shall be measured as follows:

(a) The sound level meter shall be set for slow response and on the "A" weighting scale.

(b) The sound level meter shall be observed during the full cycle of engine acceleration-deceleration. The recorded sound level shall be the highest value obtained at the appropriate, constant engine speed as specified in subsection (4) of this section, and shall exclude peaks due to unrelated ambient noise, engine noise, or extraneous impulsive-type noise.

(c) At least two measurements shall be made, and the reported sound level shall be the average of the two highest readings which are within one dBA of each other.

[Statutory Authority: Chapter 70.107 RCW. WSR 79-04-033 (Order DE 78-19), § 173-58-080, filed 3/22/79.]

173-58-090

Reserved.

[Statutory Authority: Chapter 70.107 RCW. WSR 94-12-001 (Order 92-41), § 173-58-090, filed 5/18/94, effective 6/18/94; WSR 79-04-033 (Order DE 78-19), § 173-58-090, filed 3/22/79.]

ATTACHMENT #5

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 15-____**

**AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON,
RELATING TO PUBLIC NUISANCE AND DISTURBANCE NOISE AND
PUBLIC NUISANCE ODORS CAUSED BY HEAVY MANUFACTURING
BUSINESSES AND ACTIVITIES; PROHIBITING SUCH NOISE AND
ODORS; AND AMENDING SECTIONS 8.05.020, 8.35.010 AND 8.35.020
OF THE KENMORE MUNICIPAL CODE.**

WHEREAS, businesses engaged in heavy manufacturing, which includes the mechanical, physical or chemical transformation of materials, substances, or components into new products, are likely to generate levels of truck traffic, noise, vibration and other undesirable conditions that interfere with the comfortable enjoyment of life and property, particularly in residential areas adjacent to or in the vicinity of such businesses, and particularly during nighttime hours; and

WHEREAS, the City has prohibited new heavy manufacturing uses in all business and commercial zones of the City; and

WHEREAS, despite such use prohibition, heavy manufacturing businesses are currently located and operating in some business and commercial zones of the City; and

WHEREAS, heavy manufacturing businesses, particularly those engaged in concrete manufacture and asphalt batch manufacture, are operating during nighttime hours and disrupting the comfort and repose of the City; and

WHEREAS, although RCW Chapter 70.107 and WAC Chapter 173-60, relating to noise control, establish maximum noise levels for different types of noise sources, they do not prohibit a local government, such as the City, from regulating noise from any source as a public nuisance or disturbance; and

WHEREAS, businesses engaged in heavy manufacturing are likely to emit into the atmosphere objectionable, unwholesome, foul, nauseous or offensive odors, gases or fumes; and

WHEREAS, although such odors, gases or fumes may not exceed the allowances set forth by the United States Environmental Protection Agency, the Washington State Department of Ecology and/or the Puget Sound Air Pollution Control Agency, they are a public nuisance to the citizens and residents of the City; and

WHEREAS, RCW Chapter 7.48 authorizes the City to declare and prohibit public nuisances, which are acts that annoy, injure or endanger the comfort, repose, health or safety of others; and

WHEREAS, the City Council desires to protect the peace and repose of the City and to foster the comfortable enjoyment of life and property in the City, by (1) prohibiting as a public

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nuisance and disturbance the operation of heavy manufacturing businesses, and the conduct of heavy manufacturing activities, during the nighttime hours, and (2) prohibiting as a public nuisance the release into the atmosphere by heavy manufacturing businesses all objectionable, unwholesome, foul, nauseous or offensive odors, gases or fumes;

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

Section 1. Amendment. Kenmore Municipal Code Section 8.05.020, titled Public Nuisance and Disturbance Noises,” is amended as follows:

8.05.020 Public nuisance and disturbance noises.

It is unlawful for any person to cause, or for any person in possession of property to allow to originate from said property, sound that is a public nuisance. The following sources of sound are defined to be public nuisances, except to the extent that they may be specifically exempted by other provisions of this chapter:

- A. Frequent, repetitive or continuous noise made by any animal which unreasonably disturbs or interferes with the peace, comfort and repose of property owners or possessors, except that such sounds shall be exempt when originating from lawfully operated animal shelters, kennels, pet shops and veterinary clinics;
- B. Frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;
- C. Frequent, repetitive or continuous noise in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property; provided, however, this subsection shall not apply to airplanes and boats;
- D. Yelling, shouting, whistling or singing on or near the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time and place so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;
- E. Any loud and raucous noise which unreasonably interferes with the use of any residential property, school, church, hospital or convalescent facility;
- F. Any sound made by the construction, excavation, repair, demolition, destruction or alteration of any building or property, or upon any building site, anytime on Sundays and holidays and outside the hours of 7:00 a.m. through 7:00

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p.m., Monday through Friday, and 9:00 a.m. through 5:00 p.m. on Saturday, excepting:

1. Highway construction; and
2. Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances as follows:

November 1st – April 30th

Monday – Friday, 7:00 a.m. to 8:00 p.m.
Saturday and Sunday, 9:00 a.m. to 8:00 p.m.

May 1st – October 31st

Monday – Friday, 7:00 a.m. to 9:00 p.m.
Saturday and Sunday, 9:00 a.m. to 9:00 p.m.

Nothing herein shall be construed to limit or prohibit different or more restrictive hours for any work authorized under a development permit issued by the City;

G. Frequent, repetitive or continuous sounds which emanate from any building, structure, apartment or condominium which unreasonably interferes with the peace, comfort and repose of owners or possessors of real property;

H. Sound from motor vehicle public address or audio systems, such as, but not limited to, tape players, radios and compact disc players, operated at a volume so as to be audible greater than 75 feet from the source;

I. Sound from audio equipment, such as, but not limited to, tape players, radios and compact disc players, operated at a volume so as to be audible greater than 75 feet from the source; and

J. Sound originating from property on which heavy manufacturing (as defined in KMC 18.20.1676) businesses are located or heavy manufacturing activities are conducted, including but not limited to concrete manufacture and asphalt batch manufacture, between the hours of 10:00 p.m. and 6:00 a.m. on Monday through Friday, and 9:00 p.m. and 8:00 a.m. on Saturday and Sunday; and

~~JK.~~ The foregoing provisions shall not apply to regularly scheduled events at schools or stadiums, such as public address systems for baseball games or special events approved and permitted in accordance with Chapter 8.40 KMC.

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Section 2. Amendment. Kenmore Municipal Code Section 8.35.010, titled “Unlawful Public Nuisances Declared,” is amended as follows:

8.35.010 Unlawful public nuisances declared.

It shall be a public nuisance for any person owning, occupying, leasing or having charge or possession of any property in the City to maintain or allow to be maintained on, or to be emitted from, such property any of the following conditions:

A. Vegetation and landscaping which constitute health, fire or other public safety hazards:

1. The accumulation of weeds contained in the then-current King County Noxious Weeds List or contained within then-current Chapter 16-750 WAC, Noxious Weed List Classes A, B, C.

2. Neglected or improperly maintained landscaping visible from a public street, sidewalk or right-of-way, including but not limited to dead, debris-laden, weed-infested or overgrown vegetation, such as trees, shrubs, hedges, grass and ground covers, or vegetation dying as a result of physical damage, disease, insect infestation or lack of water. For purposes of this subsection, a lawn area shall be deemed overgrown if 50 percent or more of its area exceeds 12 inches in height.

3. Any vegetation that is growing rampant and unmaintained so as to provide unsightly, unsanitary and/or unsafe conditions, is destructive to other vegetation or that block public rights-of-way or threatens to invade neighboring properties.

B. Outdoor storage and/or debris which serves as potential vermin habitat or represents a health or fire hazard:

1. Except when placed there for removal for a period of less than 14 days, the exterior accumulation of broken, abandoned or discarded furniture or other household equipment or fixtures, packing boxes, lumber, junk, trash, rubbish or other materials or debris, which are visible from a public street, sidewalk or right-of-way. Prohibited actions include the dumping, spillage or storage of solids or liquids, which may negatively impact the visual or olfactory nature of the area.

2. Storage or maintenance in a residential zone, visible from a public street, sidewalk or right-of-way, of any metal storage bin or container with a horizontal surface area of 120 square feet or greater (10 by 12).

3. Where visible from a public street, sidewalk or right-of-way, the exterior storage or maintenance of parts or machinery of any type or description unless specifically authorized by a City license or permit; building materials or merchandise unless specifically authorized by use permit; or construction

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equipment except while excavation, construction, or demolition operations covered by an active building permit or other City permit are in progress on the subject or adjoining property; provided, that City of Kenmore Ordinance No. 98-0041 as may be amended shall apply to situations involving abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, on private or public property, and the abatement thereof.

4. The exterior storage of any number of used tires in a manner that allows any accumulation of water or creates a fire or health hazard.

C. Unsafe Structures or Buildings.

1. Buildings, fences or other structures containing “graffiti” (as defined) and which are visible from a public street, sidewalk or right-of-way, or which are cracked, broken, leaning, fallen, decayed, deteriorated or defaced.

2. Any condition constituting a “substandard building” as defined in this chapter.

D. Vehicles, boats, trailers or other mobile equipment storage which presents potential public health, safety or fire hazards:

1. The parking or storage of any vehicle, boat, trailer, camper, motor home, or other mobile equipment, whether or not motorized, or portions or parts and components thereof, on property used or zoned for residential purposes, if:

a. Located on any front lawn or front yard; or

b. Located in any side or rear yard so as to prevent a three-foot-wide continuous fire access way from the front of the property.

E. Right-of-Way Encroachment. Obstruction or encroachment upon any public property, including but not limited to any public street, sidewalk, highway, right-of-way, park or building, without prior City consent. Such obstructions or encroachments include but are not limited to overgrown trees and shrubs, building materials, merchandise or other personal property and buildings or portions of buildings or structures, fences or retaining walls protruding onto public property.

F. Nonconforming Automobile Related Businesses. Use of property in a residential district for the purpose of performing auto repair, maintenance or detailing for profit except where such use constitutes a legal nonconforming use pursuant to the zoning ordinance of the City.

G. Heavy Manufacturing Businesses. Offensive odors, gases or fumes created by heavy manufacturing (as defined) businesses or heavy manufacturing activities, including but not limited to concrete manufacture and asphalt batch manufacture, where such odors, gases or fumes are perceptible by a person of

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ordinary sensitivity, without instruments, at any point of any boundary line of the lot or lots on which such business is located or such activities are conducted.

H. Other Nuisances.

1. Land, the topography, geology or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, causes erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious to the public health, safety, and welfare or to adjacent properties.

2. Maintenance of any substance which because of its quantity, concentration or physical, chemical or infectious characteristics may either cause, or substantially contribute to, an increase in mortality or serious illness or pose a significant present or potential hazard to human health or the environment if improperly managed.

3. The existence of any property condition which is unlawful or declared to be a public nuisance pursuant to any other provision of the Kenmore Municipal Code or the Revised Code of Washington (RCW) or the Washington Administrative Code. This subsection shall be construed to place an affirmative duty on property owners and occupants to maintain their property in conformity with all applicable codes. Each day that any condition which constitutes a public nuisance continues shall be deemed to be a separate violation of this chapter.

Section 3. Amendment. Kenmore Municipal Code Section 8.35.020, titled "Definitions" is amended as follows:

"Graffiti" means any unauthorized inscription, word, figure or design that is written, marked, etched, scratched or drawn or painted on any real or personal property regardless of its content or nature of the material used in the commission of the act.

"Heavy manufacturing" shall have the same meaning as the definition of "manufacturing, heavy" in KMC 18.20.1676.

"Junk" shall mean means any castoff, damaged, discarded, obsolete, salvaged, scrapped, unusable, worn out or wrecked object, thing or material, including tires.

"Property" shall mean means any real property or lot or parcel of land, including any alley, sidewalk or parkway abutting such lot or parcel of land.

"Substandard building" shall mean means any building or portion thereof that is determined to be an unsafe building in accordance with Section 102 of the Kenmore Building Code, or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in this section to an extent that endangers life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and hereby are declared to be substandard.

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Section 4. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

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

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE _____ DAY OF _____, 2015.

CITY OF KENMORE

Mayor David Baker

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:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. 15-_____



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

Subject/Topic: Public Hearing to receive public testimony on Ordinance No. 15-0398, temporarily eliminating the road impact fee and minimum parking space requirements for changes of use of existing buildings in the North Sub Area of the Regional Business Zone east of 68th Ave NE Proposed Council Action/Motion: No action requested this evening. Receive public testimony and have Council discussion.	For Council Meeting Agenda of: Department: <u>Development Services</u> Prepared by: <u>Bryan Hampson</u> <u>Initial & Date</u> Approved by Department Head: <u>BA 6/30/15</u> Approved by City Attorney: <u>RK/email BA</u> Approved by Finance Director: <u>June 6/30/15</u> Approved by City Manager: <u>RK</u> Exhibits: A. Ordinance No. 15-0398 B. Regional Business Zone Subareas Zoning Map	
Expenditure Required \$0	Amount Budgeted \$0	Appropriation Required \$0
<u>INFORMATION/BACKGROUND:</u> The City desires to encourage new public oriented businesses, such as breweries, wineries, small eating and drinking places and other commercial type businesses, to locate in existing buildings along the north side of NE 175th east of 68th Ave NE as spaces and buildings in this area become vacant. The City will conduct an 18 month pilot program in this area that temporarily reduces the minimum parking spaces required and eliminates the road impact fee. This pilot program is only eligible to non-residential change of uses in existing buildings in the North Subarea of the Regional Business Zone, east of 68th Ave NE. (Reference Exhibit B) This area consists of 17 separate parcels with approximately 16 existing buildings. Most of the buildings in this area with exception to Super Supplements and a few others are industrial warehouse style buildings with existing parking areas. Providing parking in urbanized areas is a significant expense and deterrent to infill vacant spaces or buildings. As new uses are established in existing buildings in this area, it isn't cost effective or realistic to expect additional parking structures or surface parking to be built or provided. Doing so would discourage new uses from being established in the existing buildings while the existing uses remained until the market is ready for new development or redevelopment. By reducing on-site parking spaces, customers may need to park in the right-of-way or provide alternatives to driving. Similar to parking in the rest of the City, parking is allowed in the right-of-way provided traffic laws are obeyed. Fortunately, this area is in close proximity to the Burke Gilman Trail, transit, and nearby complementary designations within walking/biking distance and/or potential for shared parking. A condition of utilizing the reduced on-site parking requirement is that the business owner must pay the City \$7,500 per year, up to five years, for the City to use for parking-related purposes, including acquiring and/or constructing new public parking.		

Similar to minimum parking spaces, road impact fees are also a deterrent to infill vacant spaces or buildings. Temporarily eliminating the road impact fee for changes of use in existing buildings in this area will encourage new permitted uses and businesses to locate in these existing buildings. It is rare that the City collects road impact fees for a change of use. Currently, the City's road impact fee for a commercial type business is \$7,667.29 per trip and \$49.66 per square foot for a restaurant. Since the City's incorporation only one business has paid road impact fees for a change of use. While it is not possible to know whether the impact fee has prevented other businesses from moving to Kenmore, temporarily reducing the minimum parking spaces required and eliminating the road impact fee during this period may have a positive impact on Kenmore's economy.

FISCAL CONSIDERATION:

Loss of potential road impact fee revenue generated from change of use applications during this period.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

To continue to implement the Economic Development Plan.

EXHIBIT A

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 15-0398**

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, RELATING TO THE NORTH SUBAREA
OF THE REGIONAL BUSINESS ZONE, EAST OF 68TH
AVENUE NE, AND TEMPORARILY ELIMINATING THE
ROAD IMPACT FEE AND MINIMUM PARKING SPACE
REQUIREMENTS FOR CHANGES OF USE OF
EXISTING BUILDINGS IN SUCH ZONE.**

WHEREAS, the City desires to encourage new businesses to locate in existing buildings in the North Subarea of the Regional Business Zone, East of 68th Avenue NE ("RB North Zone"); and

WHEREAS, the City has determined that the road impact fee and minimum parking space requirements discourage new businesses from locating in existing buildings in the RB North Zone; and

WHEREAS, the City desires to eliminate temporarily the road impact fee and the minimum parking space requirements for changes of use of existing buildings in the RB North Zone while the City considers and analyzes the reasonableness and appropriateness of such requirements;

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

Section 1. Findings. The City Council enters the following findings of fact to explain and support Sections 2 and 3 of this Ordinance:

- A. Because economic development is an important issue for the City, the City desires to promote the retention of existing businesses and the creation of new businesses, and desires to explore opportunities to promote development in areas targeted for investment by using tools and incentives. See, Goal II and strategy C.2 in the Economic Development Strategy, and Policy LU-25.2.4 in the Comprehensive Plan.
- B. The City desires to:
 - a. Create job opportunities for all citizens;
 - b. Create vibrant and successful commercial areas to provide employment and generate tax revenue;
 - c. Create a climate of business creation and retention;
 - d. Encourage the provision of commercial services;
 - e. Actively support expansion of the local economic base;
 - f. Use zoning to stimulate business revitalization and creation;
 - g. Use zoning and infrastructure incentives to achieve redevelopment and infill in the downtown; and
 - h. Create regulations and incentives that, in conjunction with market influences, will result in an inviting and vital central core that is self-supporting.See, Goal 25, Objectives 25.1, 25.2 and 25.3, Land Use Element, Comprehensive Plan; Policies LU-25.2.1, LU-25.2.3, and LU-25.5.3, Comprehensive Plan.

- C. The Regional Business Zone, East of 68th Avenue NE (“RB North Zone”) currently has a diversity of existing businesses, including office, retail, light manufacturing, breweries and wholesaling.
- D. The RB North Zone is unique because it:
 - a. Supports a concentration and diversity of existing businesses, such as office, retail, light manufacturing, breweries and wholesaling;
 - b. Has small buildings (ranging in size from 4,000 square feet to 12,000 square feet), which are divided into smaller spaces (ranging in size from 2,000 square feet to 4,000 square feet), which are attractive to small entrepreneurial and start-up businesses;
 - c. Is located near transportation routes, such as State Route 522 and the regional Burke Gilman pedestrian and bicycle trail, which provide important visibility and access to customers of new businesses; and
 - d. Is located near recreational opportunities, such as the Burke Gilman pedestrian and bicycle trail and Squires Landing Park, which are amenities and attractions for customers of new businesses.
- E. Two examples of permitted uses in the RB North Zone are “eating and drinking places” and “retail sales.” The road impact fee of KMC Chapter 20.47 for new uses of this type in the RB North Zone is extremely high, which will discourage new uses of this type in RB North Zone existing buildings.
- F. Temporarily eliminating the road impact fee for changes of use in RB Zone North existing buildings will encourage new permitted uses and businesses to locate in these existing buildings.
- G. Two examples of land uses for purposes of applying minimum parking space requirements are “restaurants” and “wineries/breweries.” In the RB North Zone, there are a limited number of onsite parking spaces available for compliance with minimum parking space requirements, thereby discouraging new land uses to locate in RB North Zone existing buildings.
- H. Temporarily eliminating the minimum parking space requirements of KMC18.40.030 for changes of use in RB North Zone existing buildings will encourage new land uses to locate in RB North Zone existing buildings.
- I. A pilot program that temporarily eliminates the road impact fee and temporarily eliminates the minimum parking space requirements for changes of use in RB North Zone existing buildings will provide an incentive for new businesses to locate in these existing buildings and will create a new business cluster, until the market is ready for new development or redevelopment in the RB North Zone.
- J. For the reasons stated in the findings above, the City Council finds that the impact fee and the minimum parking space requirements for changes of use in RB North Zone existing buildings should be temporarily eliminated for a period of eighteen (18) months, as a pilot program, in order to study and analyze the impact fee and minimum parking space requirements for such changes of use.

Section 2. New Municipal Code Section. A new City of Kenmore Municipal Code Section 20.47.035 is hereby created to read as follows:

20.47.035 Temporary suspension of road impact fees relating to change of use.

Notwithstanding any other provision of this chapter, the city temporarily eliminates the collection of the road impact fee from any applicant seeking development approval from the city for any change of use in an existing building in the North Subarea of the Regional Business Zone, East of 68th Avenue NE; provided that this section shall not apply to dwelling units; provided further that this section shall not apply to projects that add to, increase or expand the gross floor area of an existing building; and provided further that this section shall apply only to the use, renovation or remodeling of an existing building and shall not apply to redevelopment projects or other projects in which an existing building is replaced or substantially redeveloped. The term “existing building” in this section means a building that was constructed before July 1, 2015. This section shall apply to projects for which a complete development approval application is filed with the city on July 1, 2015 through December 31, 2016. This section shall automatically expire on December 31, 2016.

Section 3. New Municipal Code Section. A new City of Kenmore Municipal Code Section 18.40.035 is hereby created to read as follows:

18.40.035 Temporary suspension of required off-street parking spaces.

- A. Notwithstanding any other provision of this chapter, the city temporarily eliminates the minimum number of parking spaces for any applicant seeking development approval from the city for any change of use of an existing building in the North Subarea of the Regional Business Zone, East of 68th Avenue NE; provided that this section shall not apply to dwelling units; provided further that this section shall not apply to projects that add to, increase or expand the gross floor area of an existing building; and provided further that this section shall apply only to the use, renovation or remodeling of an existing building and shall not apply to redevelopment projects or other projects in which an existing building is replaced or substantially redeveloped. Although the minimum number of parking spaces is temporarily eliminated, the applicant shall provide as many parking spaces as is feasible for the project. The term “existing building” in this section means a building that was constructed before July 1, 2015. This section shall apply to projects for which a complete development approval application is filed with the city on July 1, 2015 through December 31, 2016. This section shall automatically expire on December 31, 2016.
- B. Any applicant seeking development approval from the city for the change of use described in subsection (A) of this Section is encouraged to enter into a written contract with a property owner who will make available to the occupants, users or customers of the building the number of parking spaces equal to the difference between the number of parking spaces required by KMC 18.40.030 and the number of parking spaces that are feasible for the project. This written contract must be reviewed and approved, and must remain in force, as provided for in KMC 18.40.020(C). If this written contract is not entered into prior to development approval, the applicant must pay to the city (1) \$7,500.00 within sixty (60) days of the date of the development approval, and (2) \$7,500.00 within (60) days of the next four (4) anniversary dates of the development approval, or until the applicant

enters into a written contract with a property owner as provided for in this subsection (B). The payments shall be deemed to be consideration for eliminating the change of use from the minimum parking space requirement of subsection (A) of this Section and the road impact fee of KMC Chapter 20.47. The payments shall be used by the City for parking-related purposes, including but not limited to installation of new parking lots. The payments shall not be returned to the applicant after expiration of the temporary elimination.

Section 4. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by State or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

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

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF JUNE, 2015.

CITY OF KENMORE

Mayor David Baker

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:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. 15-0398



Subject/Topic: Public Hearing and Discussion with City Council Regarding Development Agreement with MSPTXI LLC for Commercial Portion of Kenmore Village, “Spencer Square” Proposed Council Action/Motion: No action requested this evening. Public hearing and Council discussion with possible Council direction to City Manager.	For Council Meeting Agenda of: <u>July 13, 2015</u> Department: <u>City Manager’s Office and Development Services</u> Prepared by: <u>Rob Karlinsey & Bryan Hampson</u> Initial & Date Approved by Department Head: <u>JD 7/2/15</u> Approved by City Attorney: Approved by Finance Director: <u>[Signature]</u> Approved by City Manager: <u>[Signature]</u> Exhibits/Attachments: #1: Spencer Square Presentation Materials #2 November 3, 2014 Agenda Bill and Purchase and Sale Agreement (Hyperlinked) https://kenmore.civicweb.net/FileStorage/D4FC9ECB7DCD4AA6A0F9B61A6EBDED80-11-03-2014%20-%20Kenmore%20Village%20Commercial%20Resol.%20&%20P.pdf	
Expenditure Required \$0	Amount Budgeted \$0	Appropriation Required \$NA
<u>INFORMATION/BACKGROUND:</u> In the first half of 2012, the City began an extensive community involvement process to 1) review goals for the downtown, 2) develop a position statement for the Kenmore Village properties, and 3) establish strategic next steps to take the properties to market and thereby sell the properties to buyer(s) who would further the City’s goals and bring new investment to downtown Kenmore. The community involvement process included multiple meetings, forums, and open houses to obtain public input on the Kenmore Village properties. The resulting downtown goals and Kenmore Village position statement are included with the November 3, 2014 Council Bill. In late 2013, the City retained two brokerage firms to list the Kenmore Village properties for sale. Jones Lang LaSalle (JLL) listed the upper lot (former King County park & ride), and Colliers International listed the lower lots (the shopping center). The two firms listed the properties with the downtown goals and position statement in mind, and they emphasized key points from the goals and position statement. Soon after the properties were listed, about 16 offers/proposals were received, about half of which were for the lower commercial lots. The other proposals were for the upper lot (former park & ride) or both upper and lower lots. Colliers, JLL, the City Manager, Assistant City Manager, and Spinnaker Strategies interviewed all potential buyers for the properties. Based on the goals for the properties and the principles outlined in the Position Statement, four potential buyers for each of the properties were recommended to move forward in the process. These potential buyers (eight total) were presented to the City Council and the public at the February 25, 2013 City Council meeting. At that meeting, public comment was invited during the discussion of this agenda item. After the February 25, 2013 City Council meeting, the city manager, assistant city manager and the brokerage firms continued follow up meetings and conversations with the finalists for each property. Based on price offered for the		

properties, financial wherewithal, experience, reputation, ability to deliver in a timely manner, and alignment with the goals and position statement, the team began direct negotiations with Real Property Investors (RPI)/Benaroya for the lower commercial lots and with Main Street Property Group LLC (MainStreet) for the upper lot (former park & ride).

At the June 10, 2013 City Council meeting, the City Council adopted a resolution approving a purchase and sale agreement with RPI/Benaroya (BCC-RPI Kenmore LLC for the project) for the Kenmore Village shopping center properties (the commercial portion), including the post office, but not including the upper lot known as the former King County Park & Ride (current location of the interim skate park and across 68th Avenue from City Hall). At that same meeting, Main Street Property Group LLC was announced as the likely buyer for the upper lot (former King County Park & Ride), and a purchase and sale agreement between MainStreet and the City was approved in July of 2013 for the upper lot.

In late 2013, the City approved amendments to the upper lot purchase and sale agreement and finalized a development agreement for MainStreet to purchase and develop the former King County Park & Ride (upper lot). MainStreet closed on the upper lot in May of 2014 and construction of 138 residential units (phase I), called Spencer68, is now underway. Two of the Spencer68 buildings are ready for occupancy or are in the process of being occupied. The remaining buildings should be ready for occupancy by the end of this summer or early fall. In May of this year we received a Site Plan application for Phase II of Spencer68. Phase II includes 4 new multifamily buildings, similar construction to Phase I, consisting of up to 90 residential units.

Furthermore, in 2013 the City sold 1.25 acres of Kenmore Village commercial property to Kenmore Camera to facilitate Kenmore Camera's relocation and expansion. Kenmore Camera subsequently moved into the 17,000 square foot commercial space next to and east of the veterinarian, remodeled the building, and held their grand re-opening in February of 2014.

Commercial Portion – Spencer Square

Going back to the remaining Kenmore Village commercial portion, after a six month due diligence period, neither the City nor RPI/Benaroya elected to extend the due diligence period or move forward to closing, so the two parties ended the arrangement in December 2013/January 2014.

Soon thereafter, the City reached out to other potential buyers who had made offers for the commercial portion of the property, including MainStreet Property Group. Because MainStreet's investment in the upper lot made them a motivated stakeholder in the overall success of Kenmore Village, and because MainStreet had been one of several potential buyers that made an offer on both the residential and commercial portions of Kenmore Village, the city manager began more earnest discussions and negotiations with MainStreet. These negotiations resulted in the purchase and sale agreement that the City Council and MainStreet approved in early November 2014. The City and MainStreet closed on the purchase and sale agreement in March of this year; as a result, MainStreet is now the owner of approximately two acres of the commercial portion of Kenmore Village. MainStreet plans on calling this portion of Kenmore Village "Spencer Square."

The City Council November 3, 2014 agenda bill, full purchase and sale agreement, and supporting exhibits are attached. The major deal points the City Council approved in the purchase and sale agreement for the commercial portion of Kenmore Village are as follows:

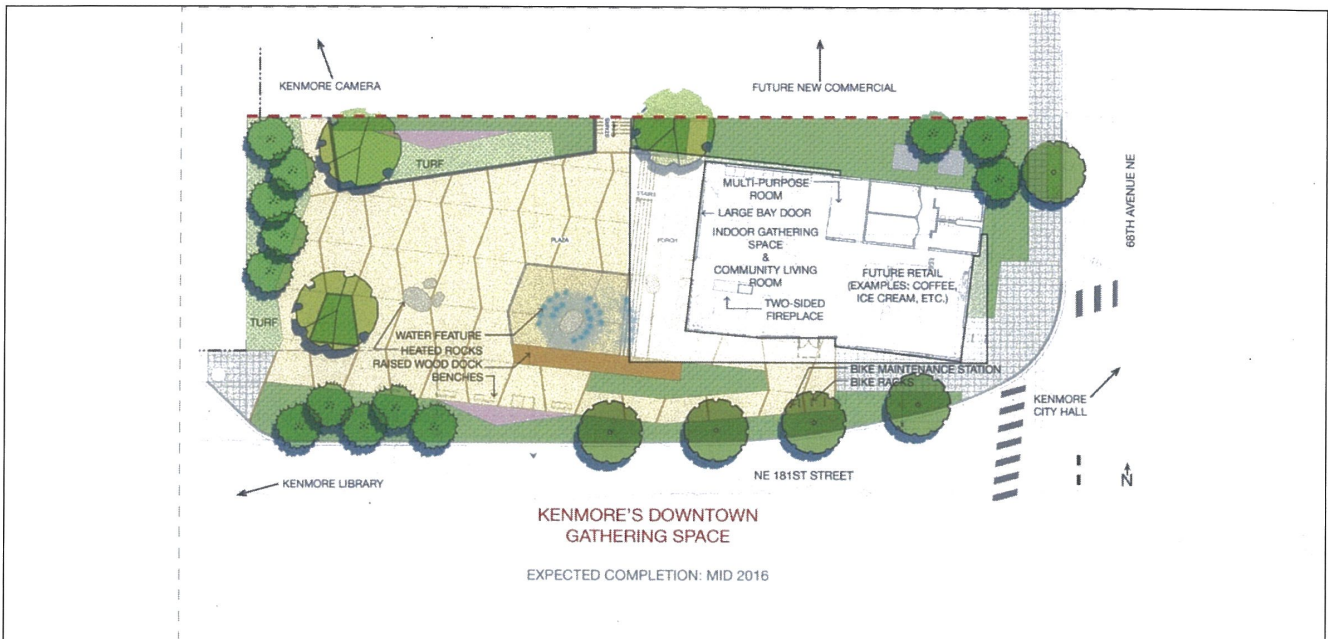
1. Total purchase price of \$1,150,000. MainStreet paid \$970,667 upon closing for the area north of the Town Green (identified in Exhibit B to this agenda bill as Parcels D and B) and will pay, at MainStreet's option, \$179,333 for the Option Parcel C (the future parcel next to and on the west side of the town green)." See Section 29. Option Property of the PSA. MainStreet has two years until March 2017 to exercise this option but may extend the option for an additional six months for a fee of \$10,759.98. MainStreet may only exercise the option when it can produce a lease for a "sit down" restaurant to be located on the site.
2. Earnest Money: \$48,533, applicable to and 5% of the purchase price of Parcels D and B.

3. At MainStreet's cost, MainStreet must demolish the back building (NE corner of the property) by August 1, 2016. MainStreet will demolish the southeast building within 90 days notice from the City or date of MainStreet's choosing, whichever is sooner (the City gave notice to MainStreet to demolish the southeast building on May 13, 2015). The City and MainStreet will share in the cost of demolishing the southeast building, based on how much of the building overlaps onto the town green property.
4. Construction Timeline: MainStreet must obtain a certificate of occupancy for a new building on Parcel B within three years of the closing date of this agreement.
5. New construction minimum: MainStreet must construct 10,000 square feet on Parcel B and another 4,000 square foot minimum to be constructed on the Option Property if the option is exercised.
6. MainStreet cannot sell or transfer the property north of the town green until they've completed the 10,000 square feet of new construction on Parcel B. MainStreet cannot sell the Option Property until they've constructed 4,000 square feet of new construction on the Option Property.
7. Utility undergrounding along MainStreet property street frontage is required and the cost is born by MainStreet.
8. Certain uses (conforming to or in addition to what our current zoning code prohibits) permanently prohibited (see Exhibit M of the PSA for the full list).
9. The property the City will retain includes the Town Green Parcel and the "Pavilion" Parcel on the corner.
10. Subdivision: Prior to and as a condition of closing, the property will be subdivided into the following parcels: 1) the Post Office property Parcel B-1 (not to be purchased by MainStreet), 2) the Option Parcel C (west side of the Town Green), 3) Town Green/Pavilion Parcels, 4) Parcel D, and 6) Parcel B (see Exhibit B to this Agenda Bill). This subdivision was finalized in March of 2015.
11. Closing Date: The Closing is triggered by the recording of the subdivision and will occur five days after the subdivision has been completed. We closed on the property in March of this year.
12. Development Agreement. Exhibit N of the PSA contemplates a future development agreement. Potential deal points for the development agreement include such items as phasing, building heights, setbacks, uses, density, parking, property tax abatement for residential, bicycle storage and parking, etc.

"Meet the Developer" Open House: Several days prior to City Council consideration of the purchase and sale agreement on November 3, 2014, the City held a "Meet the Developer" Open House at City Hall on October 30, 2014. This open house was open to the public and was an opportunity for citizens to meet with the MainStreet principals and ask them about the purchase and sale agreement and their proposed project.

Town Green

As referenced in deal point #10 above, the City will retain and continue to own property fronting the north side of NE 181st Street, including at the northwest corner of 181st Street and 68th Avenue. On this property, the City will construct a town green and community building for public use, depicted as follows:



The City expects to start construction on the town green in October of this year. Completion is expected in the summer of 2016.

Proposed Spencer Square Development Agreement

MainStreet has been designing and engineering proposed new construction for the Spencer Square portion of Kenmore Village, and they have been in development agreement negotiations with City staff. MainStreet plans on constructing a six story mixed use building on parcel D (northeast corner) with a level of structured parking, one story of office/medical, and four floors of residential units. In a later phase, MainStreet intends to construct, at minimum a one story, 18,000 square foot commercial building on parcel B, with a possibility of providing additional commercial or residential floors if the market is right. MainStreet has not exercised its option on the restaurant parcel C (they have until March of 2017 to do so), but if/when they do, MainStreet will construct a sit-down restaurant in a separate phase of construction.

Meanwhile, the City's Town Green and community building for the town green parcel and the pavilion parcel, respectively, are making progress. Town Green and community building construction along NE 181st Street should begin in the fall (mid October) of this year and be complete in the summer of 2016.

We plan on holding a public hearing and discussing the development agreement with the City Council and MainStreet representatives at the July 13 City Council meeting. Pending the discussion on July 13, we intend to hold a second public hearing and bring a development agreement forward for City Council consideration and approval on July 27, 2015. Two public hearings are required if deviations from uses, residential densities, floor area ratio limitations, or building height are requested. Main components of the proposed Spencer Square development agreement are outlined below. MainStreet is requesting the following in the proposed development agreement:

1. Deviations from some of the City's development regulations, such as certain building design standards, building height, parking minimums, building setbacks, and landscaping. The purpose of these deviations is to maximize and/or enhance both the investment as well as the intensity of the uses in the core of the City's downtown. Some deviations are also requested due to topography challenges.
2. Ten-year vesting on the site development permit.
3. Easement to install water and sewer utility lines under the Town Green parcel.

4. Impact fee vesting, meaning MainStreet will pay current impact fee rates for the duration of the development agreement.
5. Development Agreement Term: 10 years.

In return for MainStreet's requests listed above, the City has negotiated the following into the proposed development agreement. MainStreet will:

1. Pay impact fees at building permit issuance rather than at certificate of occupancy.
2. Sponsor Town Green events each year.
3. Along 68th Ave NE, MainStreet will construct and install enhanced building facade features, to improve the look and design of the building, and will also provide wayfinding signage and maps showing amenities such as nearby complementary designations, parks, trails, and walking/jogging routes.
4. Design for and restripe 68th Avenue between NE 181st Street and NE 182nd Street to create more on-street parking and potentially new bicycle lane(s). City will review and approve any such changes in advance.
5. Pay for and construct the new driveway entrance to Kenmore Village on the north side of NE 181st Street at 67th Avenue. City will be responsible for funding and installing landscaping, lighting, and irrigation at this driveway entrance.
6. Upon construction of the sit-down restaurant, complete the west edge of the Town Green to match the rest of the Town Green treatment (currently, this west edge of the Town Green is designed for temporary turf treatment until the restaurant building is constructed).
7. Demolish the remaining buildings on parcels B and D by October 1, 2015. (The purchase and sale agreement requires demolition of the structure on parcel D by August 1, 2016)
8. Install water and sewer utility lines under the Town Green parcel by October 1, 2015.
9. Grade the Spencer Square site and Town Green site by October 1, 2015. MainStreet will provide fill material from the Spencer Square site for the Town Green site.

The estimated dollar value to the City that MainStreet is providing for such items as the 67th Avenue driveway entrance, filling and grading the Town Green site, and re-stripping one block of 68th Avenue is approximately \$120,000 - \$140,000.

Other benefits to the City from MainStreet's overall investment in Kenmore Village will include increased residential and commercial density and activity for our downtown, provision of new/additional services to meet the needs of our citizens (medical office and provision of quality housing near amenities and transit lines, for example), new taxes and development fees from construction, new ongoing property and utility taxes post-construction, undergrounding of utility lines along the east edge of Kenmore Village, new sidewalks along the west side of 68th Avenue (fronting the Spencer Square site), and removal of blighted buildings in the downtown core.

We look forward to discussing this important milestone in the progress toward creating a more identifiable downtown Kenmore and sense of place for our community.

Kenmore Village Positioning Statement (September 2012)

“Kenmore Village is a walkable place with a public square where Kenmore-area residents and workers can meet their daily needs and see one another face-to-face.”

FISCAL CONSIDERATION: See above.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED: To continue to implement the Economic Development Plan, promote the image of Kenmore and to create a vibrant, walkable downtown

PROJECT DATA

PARKING

GARAGE PARKING 110 SPACES
SURFACE PARKING 37 SPACES

FLOOR AREA

GARAGE 38086 SF
1ST FLOOR 21688 SF
2ND-4TH FLOOR 23437 SF
5TH FLOOR 22992 SF
LOFT FLOOR 2960 SF

TOTAL AREA 156037 SF

UNIT TYPE

STUDIO 16
ONE BEDROOM 48
TWO BEDROOMS 18
THREE BEDROOMS 8

TOTAL UNITS 90



SPENCER SQUARE
KENMORE, WA | MSPT XI LLC

DAHLINE GROUP ARCHITECTURE | PLANNING | 1130.017 | JULY 2015

DAHLINE
group
SITE PLAN

A1

0 16 32 64
NTS





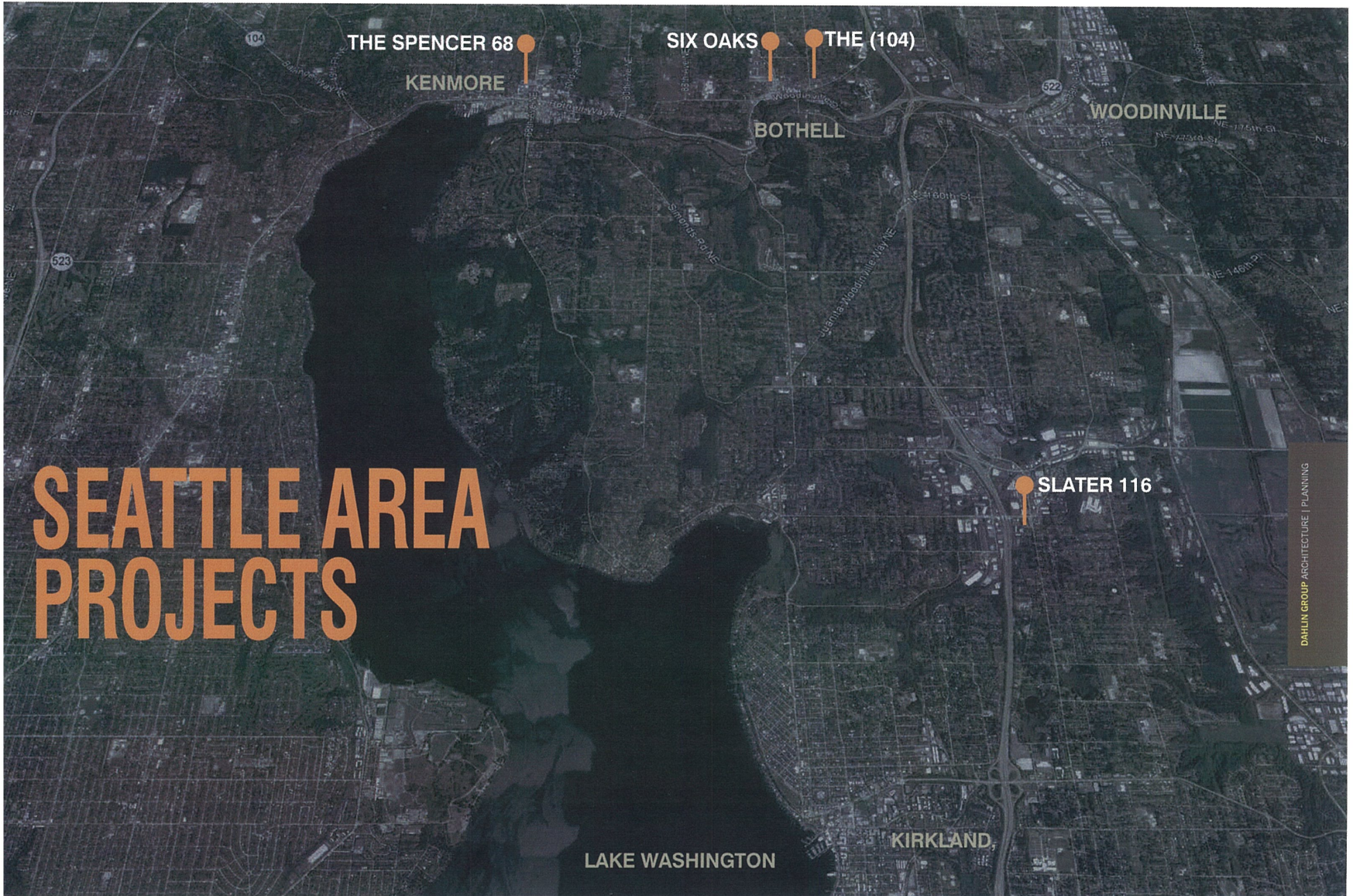
SPENCER SQUARE

KENMORE, WA | MSPT XI LLC

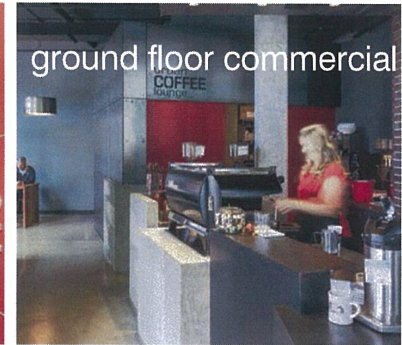
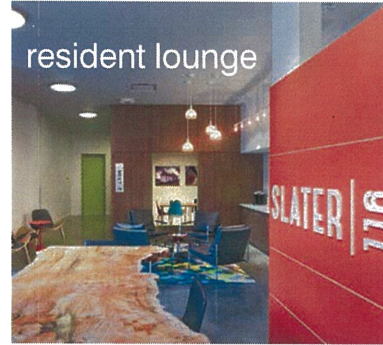
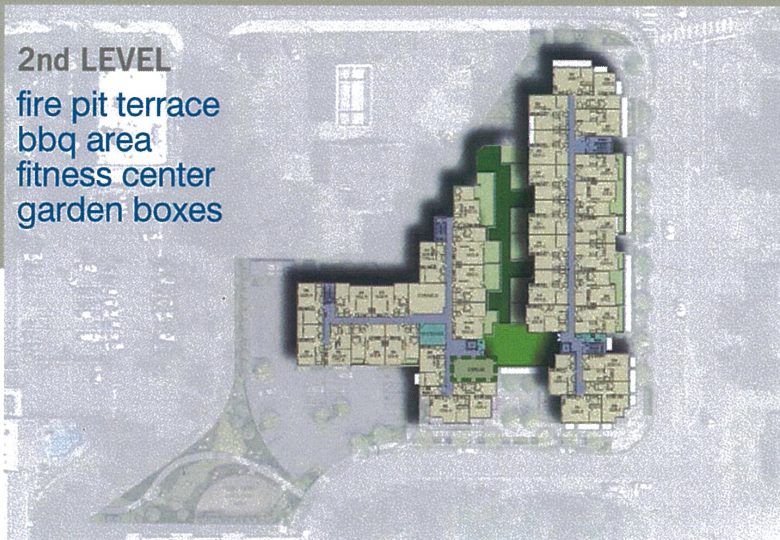
DAHLIN GROUP ARCHITECTURE | PLANNING | 1130.017 | JULY 2015

DAHLIN
group
PROJECT VISION

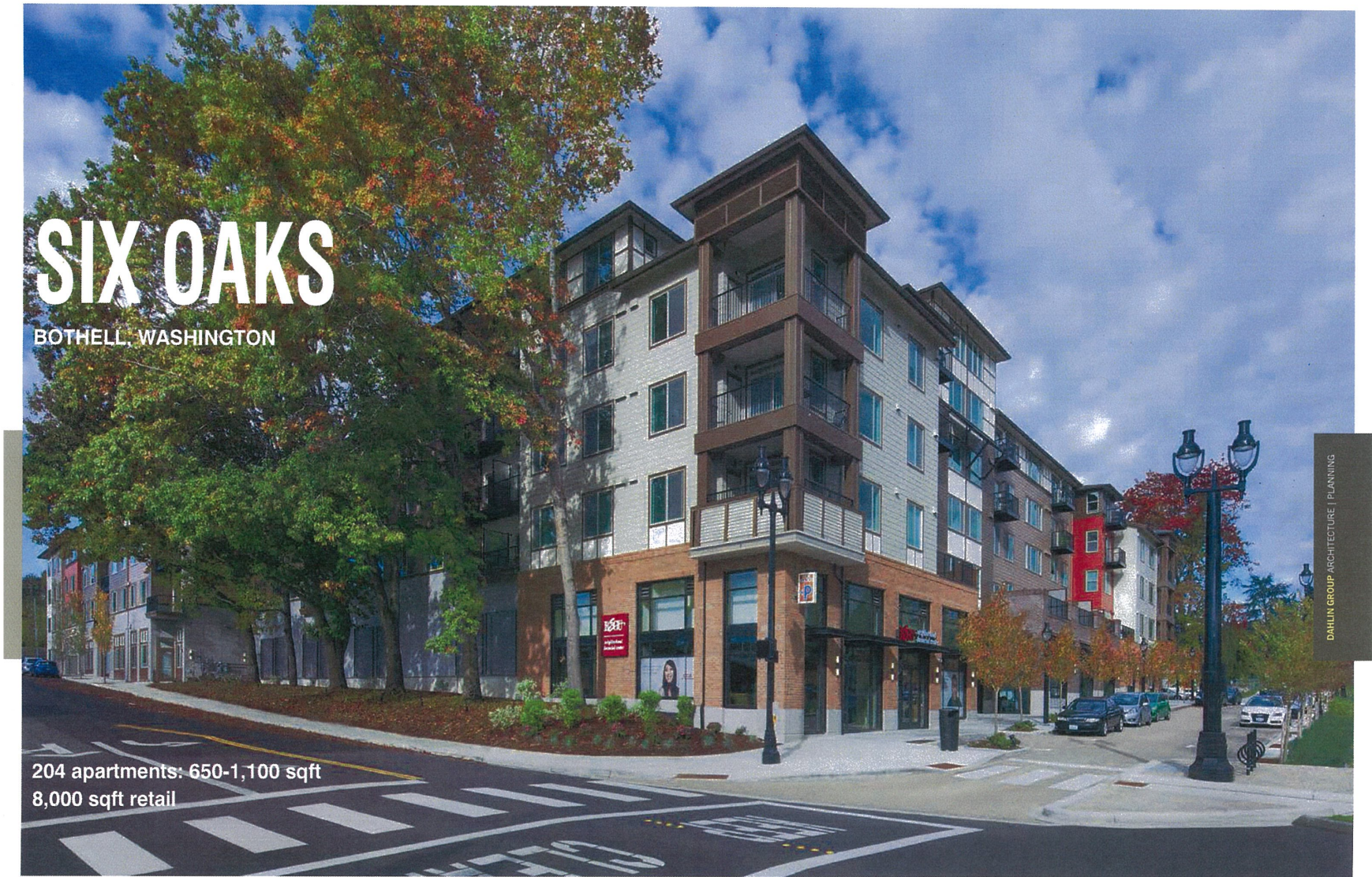
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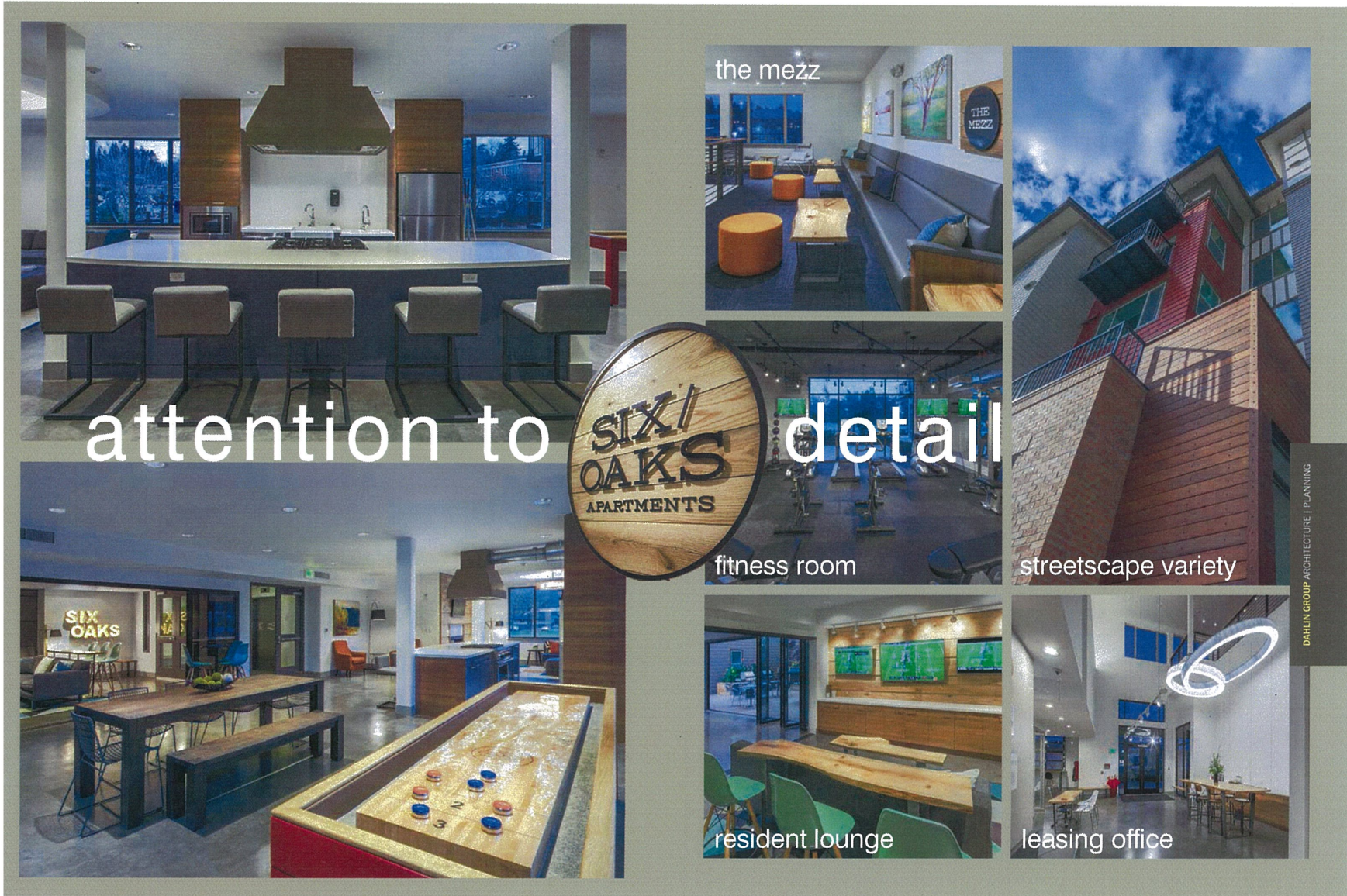




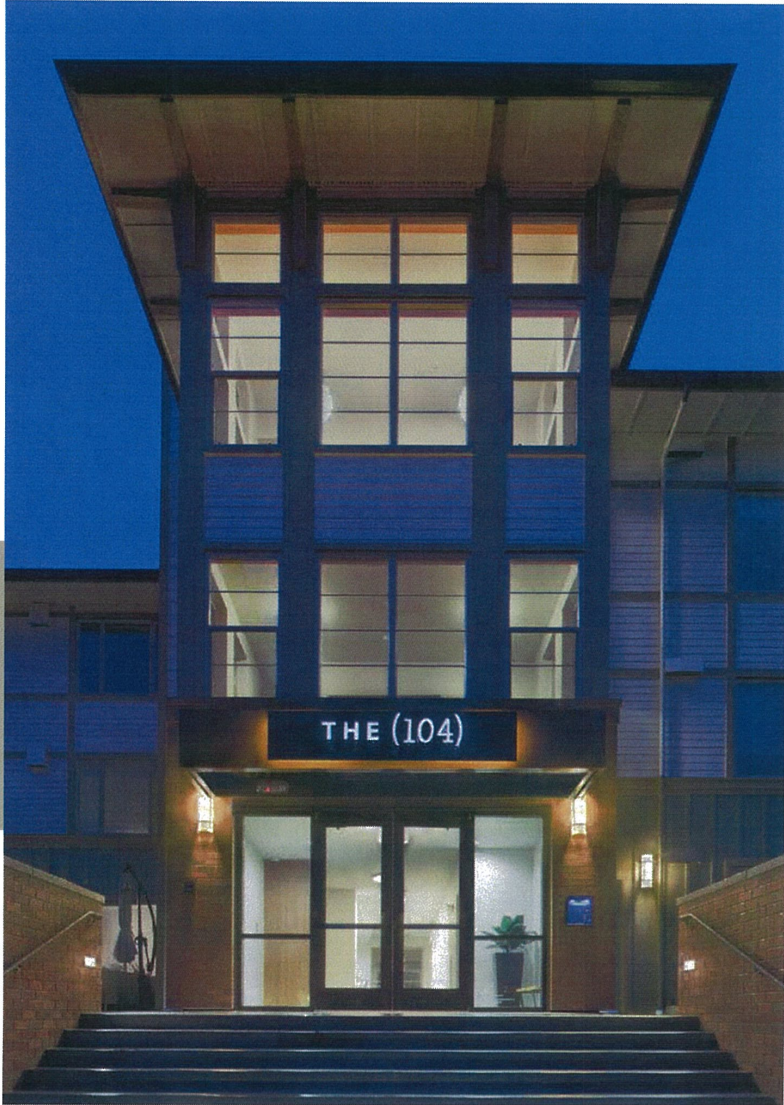




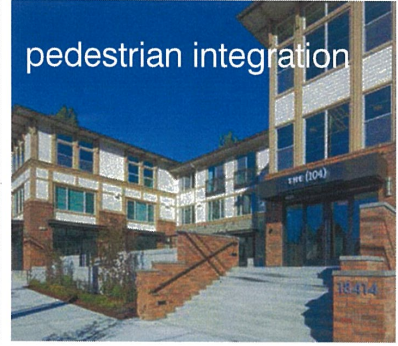




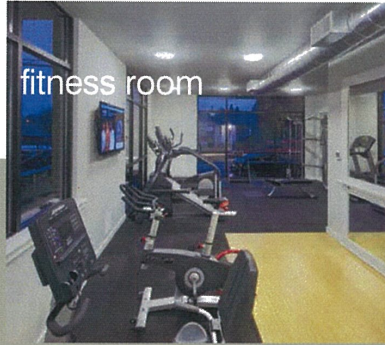




resident lounge



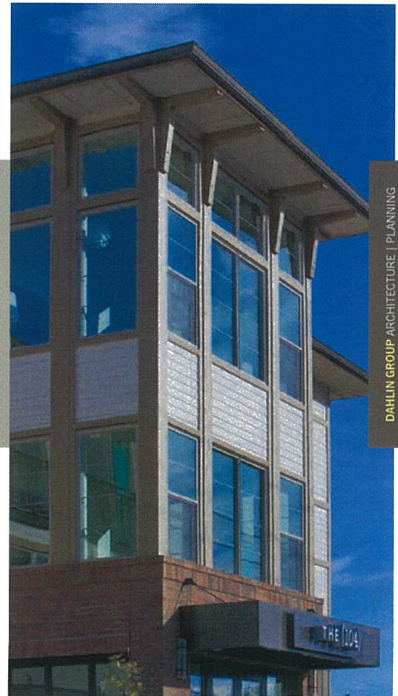
pedestrian integration



fitness room



versatile spaces



DAHLIN GROUP ARCHITECTURE | PLANNING

THE SPENCER 68

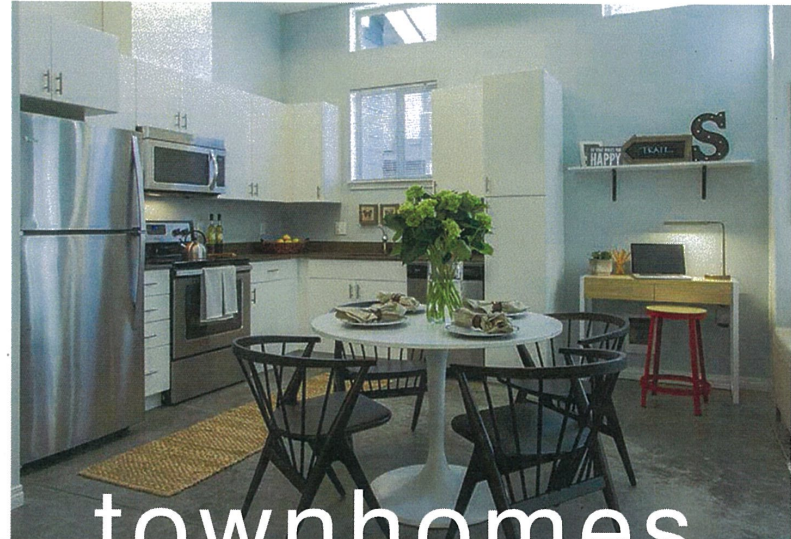
KENMORE, WASHINGTON

220+ apartments and townhomes: 550-1500 sqft

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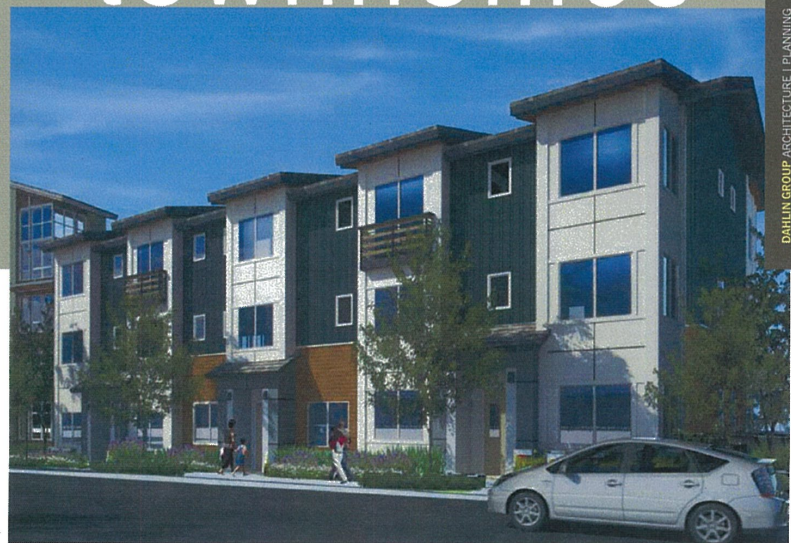
urban flats



townhomes



fitness studio
indoor/outdoor resident lounge
lit pickleball/basketball court
dedicated outdoor pet area
open/versatile floor plans
walk to restaurants and trails





SPENCER SQUARE
KENMORE, WA | MSPT XI LLC

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DAHLIN
group
NORTH EAST VIEW

A3



SPENCER SQUARE
KENMORE, WA | MSPT XI LLC

DAHLIN GROUP ARCHITECTURE | PLANNING | 1130.017 | JULY 2015



SOUTH EAST VIEW

A4



SPENCER SQUARE
KENMORE, WA | MSPT XI LLC

DAHLIN GROUP ARCHITECTURE | PLANNING | 1130.017 | JULY 2015

DAHLIN
group
SOUTH WEST VIEW

A5



SPENCER SQUARE
KENMORE, WA | MSPT XI LLC

DAHLIN GROUP ARCHITECTURE | PLANNING | 1130.017 | JULY 2015

DAHLIN
group
FRONT ENTRY VIEW

A6



68TH STREET ELEVATION

SPENCER SQUARE
KENMORE, WA | MSPT XI LLC

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STREETSCAPE

0 16 32 64
1/16"=1'-0" SCALE

A7





68TH STREET ELEVATION

ELEVATION KEYNOTES

- 1 COMPOSITE SHINGLE ROOFINGS
- 2 SMOOTH WALLBOARD W/ REVEALS
- 3 HORIZONTAL LAP SIDING
- 4 COMPOSITE WINDOWS AND DOORS
- 5 METAL BALCONY
- 6 ARCHITECTURAL SCREEN
- 7 STOREFRONT WINDOW/DOOR ASSEMBLY
- 8 MIXED STAINED SIDING



SOUTH ELEVATION

SPENCER SQUARE
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ELEVATIONS

A8

0 16 32 64
1/16"=1'-0" SCALE





ELEVATION KEYNOTES

- 1 COMPOSITE SHINGLE ROOFINGS
- 2 SMOOTH WALLBOARD W/ REVEALS
- 3 HORIZONTAL LAP SIDING
- 4 COMPOSITE WINDOWS AND DOORS
- 5 METAL BALCONY
- 6 ARCHITECTURAL SCREEN
- 7 STOREFRONT WINDOW/DOOR ASSEMBLY
- 8 MIXED STAINED SIDING



SPENCER SQUARE
KENMORE, WA | MSPT XI LLC

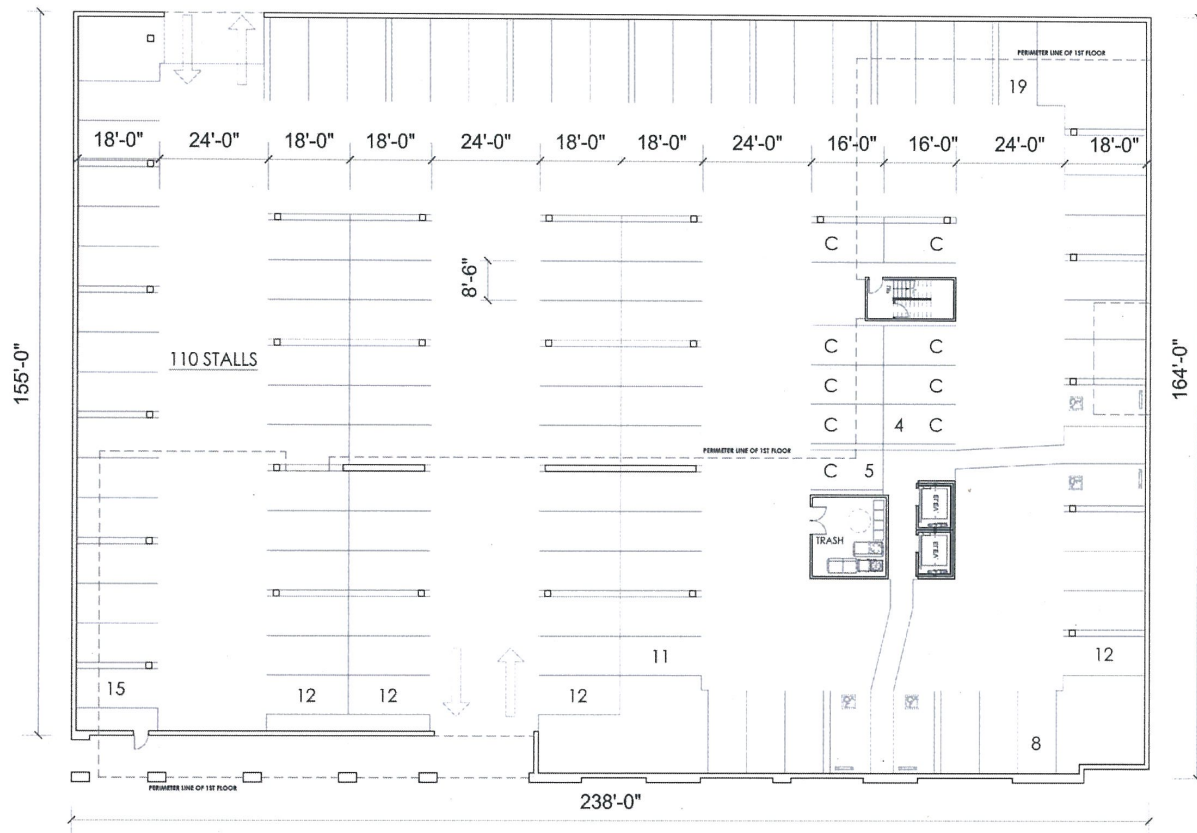
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DAHLIN
group
ELEVATIONS

A9

0 16 32 64
1/16"=1'-0" SCALE





SPENCER SQUARE

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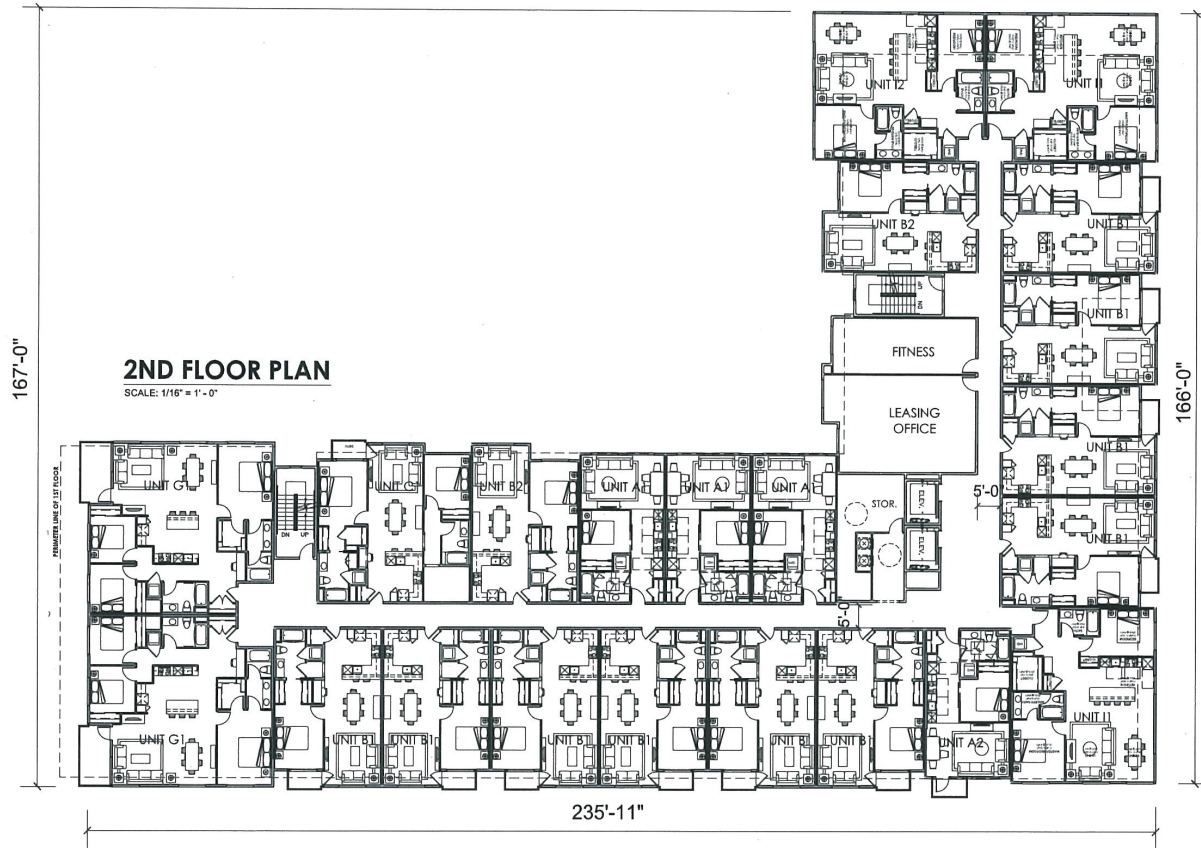
BUILDING GARAGE PLAN

A10

0 32/3 64/3 128/3
3/32"=1'-0" SCALE







SPENCER SQUARE

KENMORE, WA | MSPT XI LLC

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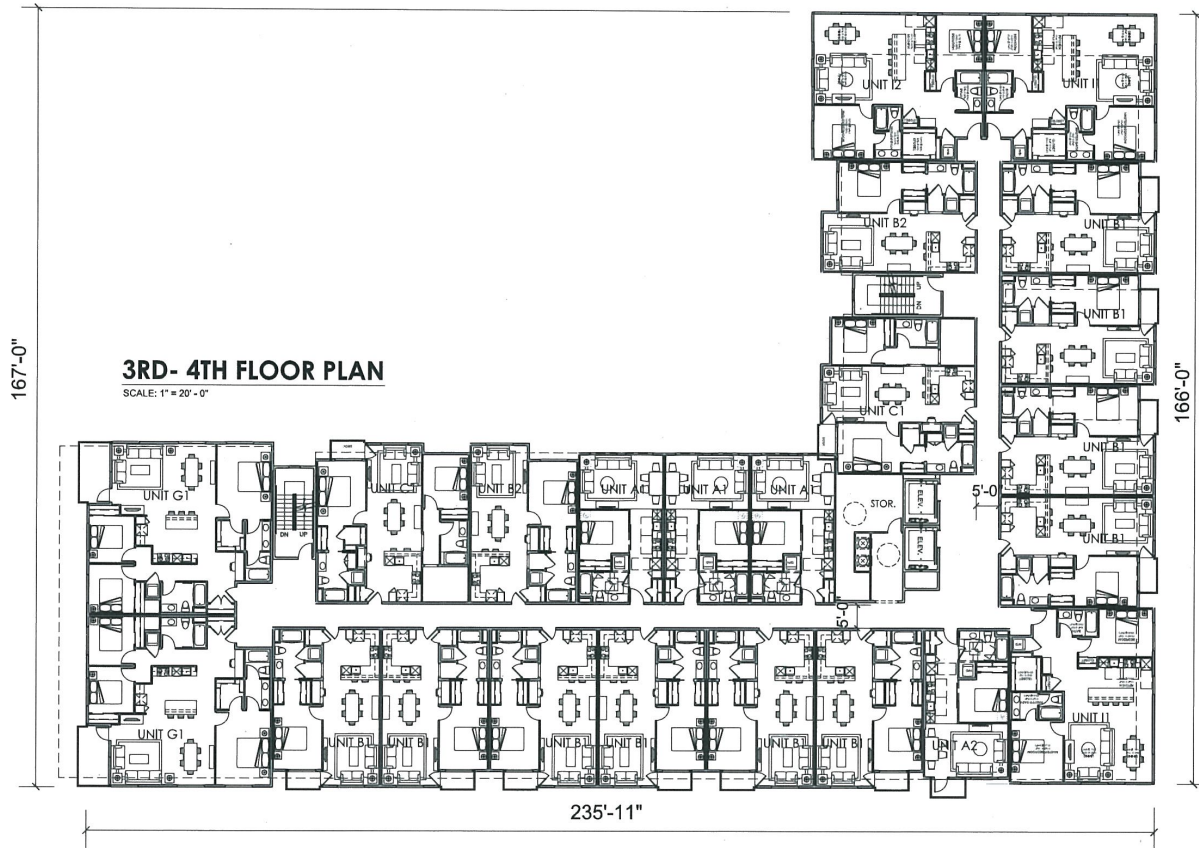


A12

BUILDING 2ND FLOOR

0 32/3 64/3 128/3
3/32"=1'-0" SCALE





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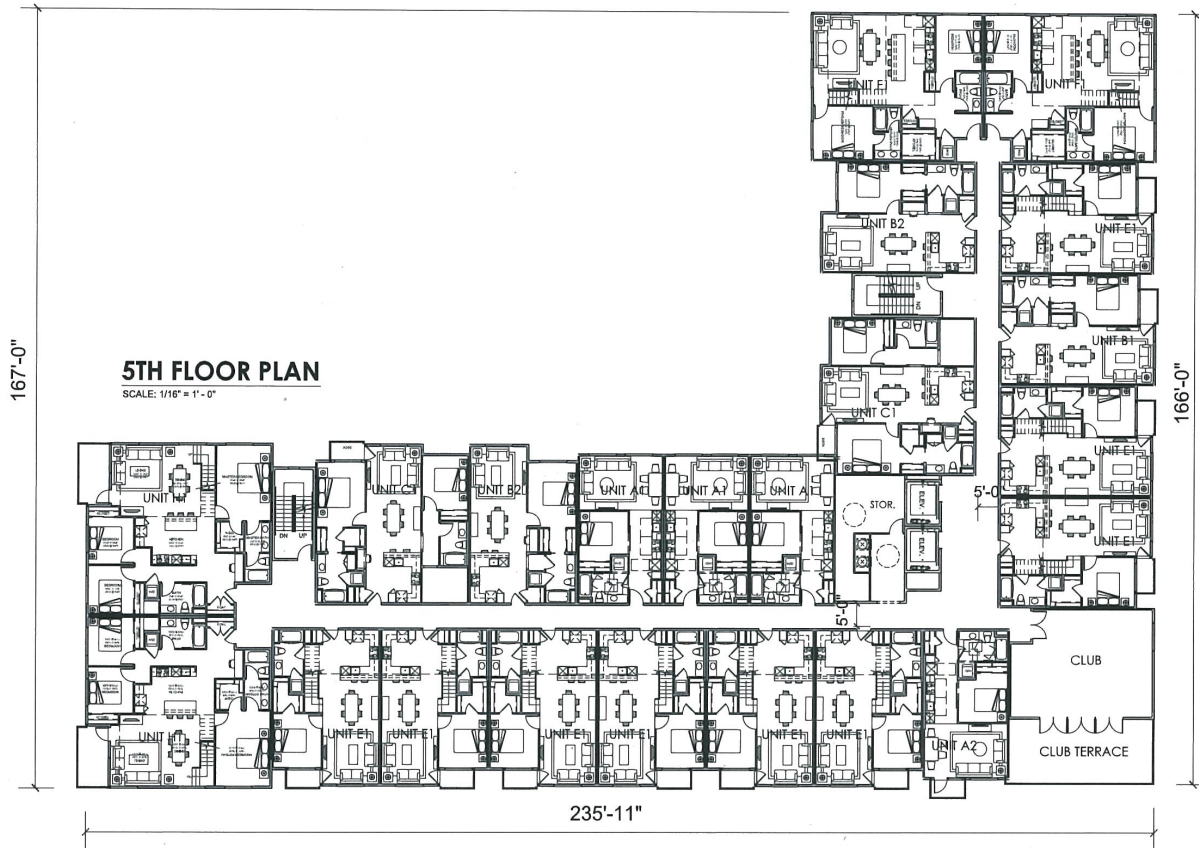


A13

BUILDING 3RD/4TH FLOOR

0 32/3 64/3 128/3
3/32"=1'-0" SCALE





SPENCER SQUARE
KENMORE, WA | MSPT XI LLC

DAHLIN GROUP ARCHITECTURE | PLANNING | 1130.017 | JULY 2015

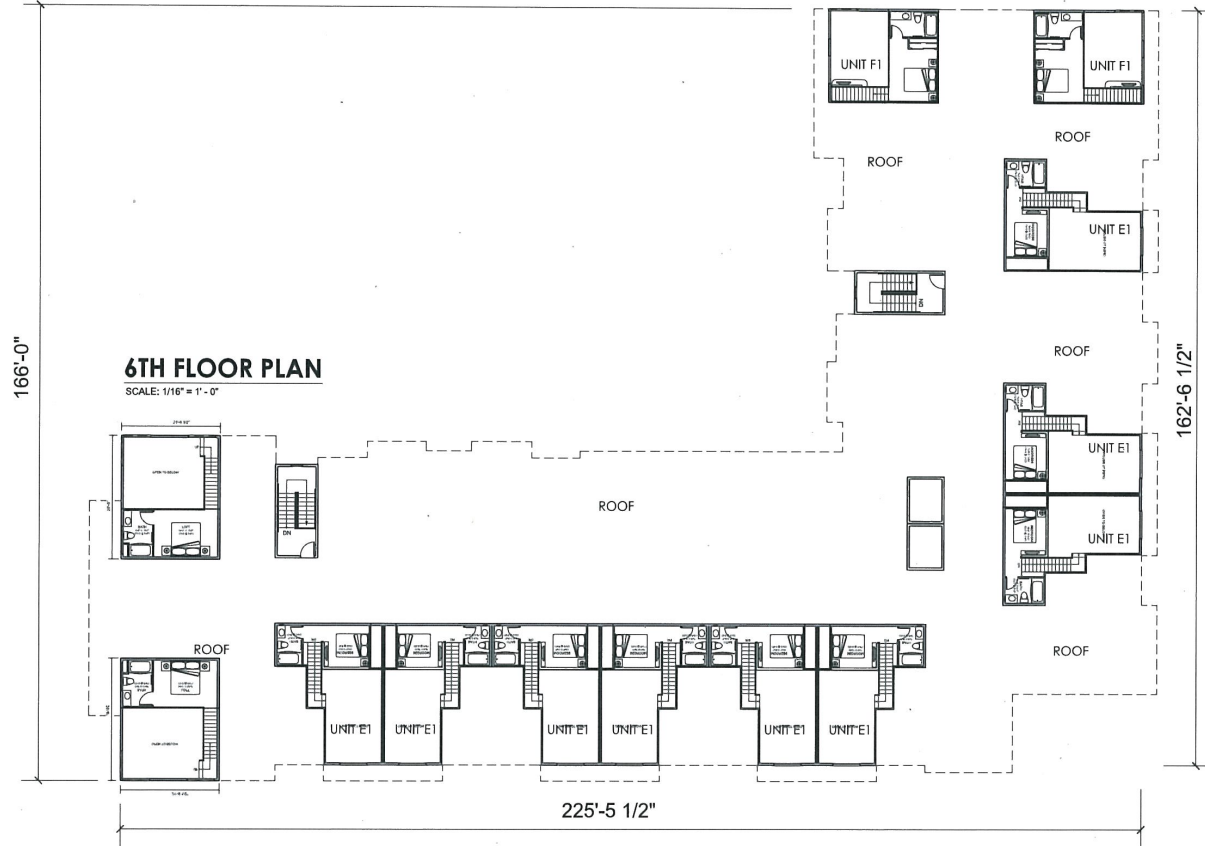
DAHLIN
group

BUILDING 5TH FLOOR

A14

0 32/3 64/3 128/3
3/32"=1'-0" SCALE





SPENCER SQUARE
KENMORE, WA | MSPT XI LLC

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DAHLINE
group
LOFT LEVEL

A15

0 32/3 64/3 128/3
3/32"=1'-0" SCALE





68th Avenue Channelization Without Left Turn Lane at NE 182nd Street

Spencer Square

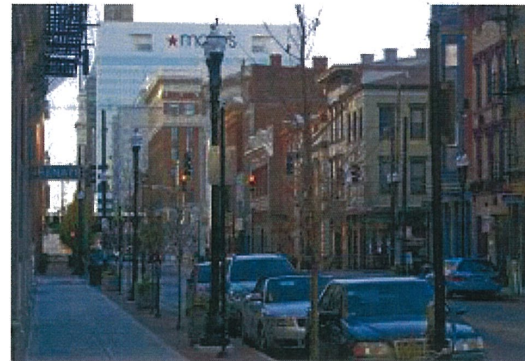
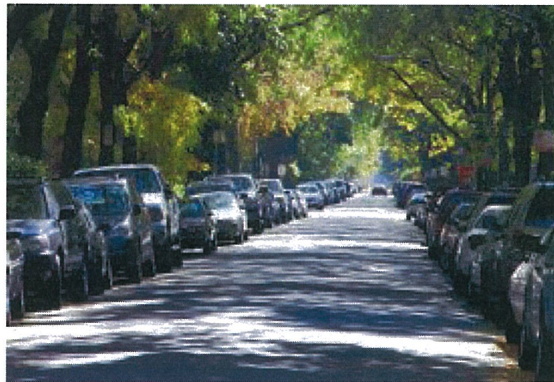
transpogroup **7T**
WHAT TRANSPORTATION CAN BE.

FIGURE

1

On-Street Parking

“The investigation points to on-street parking as crucial in benefiting activity centers on numerous levels. Users of the downtowns consistently valued these land-efficient on-street parking spaces over and above off-street surface lots and garages. Low-speed streets with on-street parking also had the lowest fatal and severe crash rates of any road category in the study of 250 Connecticut roadway segments. Part of the reason is that the presence of parking had a measurable effect on vehicle speeds. On-street parking is not purely a device to be used in the right environment; rather, it is a tool to help create that right environment. On-street parking should be more commonly used but especially in situations in which the road is part of the destination and the intent is to cause drivers to slow down. Results suggest that these places are safer, are more walkable, require less parking, and have more vitality.”



Source: Transportation Research Board of National Academies, “Reassessing On Street Parking”
6 major Commercial Centers in New England and 250 Roads in New Connecticut were studied

Average Speed vs. On Street Parking Density

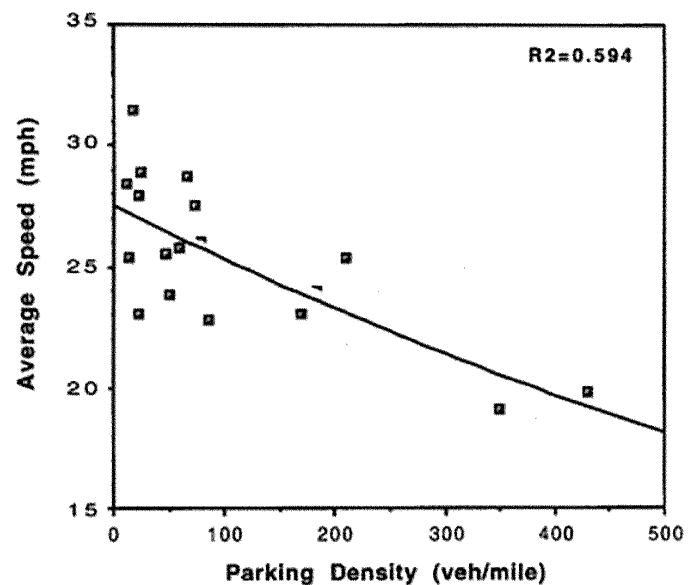


Figure 5. Average Speed vs. On-Street Parking Density

The points on the graph represent very low to moderately high parking densities on streets of varying widths, both during the day and at night. The higher parking densities on narrow streets which reduce the effective width can dramatically slow speeds.

Source: "Narrow Residential Streets: Do They Really Slow Speeds?" Fehr and Peers and Associates, Members of ITE