



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 Meeting
6:00 p.m., Monday, April 28, 2014
Kenmore City Hall, Council Chambers
18120 68th Ave. NE, Kenmore, WA 98028

City of Kenmore
REVISED City Council Regular Meeting
7:00 p.m., Monday, April 28, 2014
Kenmore City Hall, Council Chambers
18120 68th Ave. NE, Kenmore, WA 98028

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

- I. 6:00 p.m. - CALL SPECIAL MEETING TO ORDER**
- II. REVIEW OF PEDESTRIAN & BICYCLE SAFETY AD HOC COMMITTEE APPLICATIONS**
- III. ADJOURN SPECIAL MEETING**
- IV. 7:00 p.m. - CALL REGULAR MEETING TO ORDER**
- V. ROLL CALL**
- VI. FLAG SALUTE**
- VII. AGENDA APPROVAL**
- VIII. PROCLAMATION**
 - A. Records and Information Management Month - April 2014
[Proclamation](#)
- IX. 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.

X. CONSENT AGENDA

- A. Adopt Minutes for the March 24, 2014 and April 7, 2014 City Council Meetings
[DRAFT 03 24 2014 Minutes](#)
[DRAFT 04 07 2014 Minutes](#)
- B. Approve Check Nos. 29749 - 29813 in the Amount of \$300,468.57; Payroll Check Nos. 211215 and 211216 Totaling \$1,133.98; and Electronically Transferred Payroll Funds Totaling \$64,525.97 for the Period Ending April 11, 2014
[Checks for Approval](#)
- C. Cancel City Council Regular (Holiday Schedule) Meeting for Tuesday, May 27, 2014

XI. PUBLIC HEARINGS

- A. Public Hearing to Receive Public Testimony on Ordinance No. 14-380, Extending the Moratorium on Marijuana Businesses Under Washington State Initiative No. 502 - Debbie Bent, Community Development Director, and Lauri Anderson, Senior Planner
 - Adopt Ordinance No. 14-380 to Extend the Moratorium on Marijuana Businesses Through November 7, 2014
[Agenda Bill & Attachments](#)
- B. Public Hearing to Receive Public Testimony on Ordinance No. 14-0381, Extending the Interim Zoning Regulation Prohibiting Marijuana Businesses in the R-1, R-4 and R-6 Single-Family Residential Zoning Districts - Debbie Bent, Community Development Director, and Lauri Anderson, Senior Planner
 - Adopt Ordinance No. 14-0381 to Extend the Current Interim Zoning Regulations Prohibiting Marijuana Businesses through November 7, 2014
[Agenda Bill & Attachments](#)

XII. BUSINESS AGENDA

- A. Discussion and Direction on the Regulation of Marijuana Businesses and Medical Marijuana Collective Gardens in the City of Kenmore - Debbie Bent, Community Development Director, and Lauri Anderson, Senior Planner
[Agenda Bill & Attachments](#)
- B. Adopt Resolution No. 14-235, Setting a "Target Zero" Goal for Pedestrian and Bicycle Deaths Within the City - Rob Karlinsey, City Manager
[Agenda Bill & Attachment](#)
- C. Kenmore Business Incubator Report and Discussion for 2015-2016 Budget

Development - Nancy Ousley, Assistant City Manager

[Agenda Bill & Attachments](#)

[PowerPoint Presentation](#)

- D. Adopt Resolution No. 14-236 Authorizing a Grant Funding Application to the Washington State Recreation & Conservation Office (RCO), Wildlife & Recreation Program (WWRP), for a Potential Property Acquisition for the Squires Landing Park Expansion Project - Rob Karlinsey, City Manager
[Agenda Bill & Attachment](#)

XIII. STAFF REPORT

XIV. COUNCILMEMBER REPORTS & COMMENTS

XV. COUNCILMEMBER INITIATIVES

- A. Discussion of City Council Vacancy Policy and Procedures

XVI. ADJOURNMENT

Upcoming Meetings:

Tuesday, April 29, 2014	Planning Commission Regular Meeting	7:00 p.m.
Tuesday, May 6, 2014	Planning Commission Regular Meeting	7:00 p.m.
Monday, May 12, 2014	City Council Regular Meeting	7:00 p.m.

**City of Kenmore, Washington
Proclamation**

**Records and Information Management Month
April 2014**

WHEREAS, the management of records and information is critical to every business, organization and government agency; and

WHEREAS, technologies for storing information are expanding the amounts of information that can be acquired and increasing its longevity; and

WHEREAS, records provide invaluable historical evidence of the policies and business practices of an organization; and

WHEREAS, the need to use information to create value and plan strategically is a driving force in today's world; and

WHEREAS, control of records and information is necessary for reduction of risk and liability as well as for compliance with global standards; and

WHEREAS, the citizens of the City of Kenmore, Washington, should recognize the important service performed by records and information professionals,

NOW, THEREFORE, I, David Baker, Mayor of the City of Kenmore, Washington, on behalf of the City Council, am pleased to proclaim **April 2014** to be

"RECORDS AND INFORMATION MANAGEMENT MONTH"

in the City of Kenmore, and I encourage all citizens to join with the City Council in recognizing this event.

IN WITNESS WHEREOF, signed this 28th day of April, 2014.

Signed: _____
David Baker, Mayor

Attested: _____
Patty Safrin, City Clerk

**City of Kenmore, Washington
City Council Regular Meeting
Minutes
March 24, 2014**

At 6:00 p.m., Mayor Baker announced that the Special Executive Session Meeting was canceled.

CALL TO ORDER – Mayor Baker called the regular meeting to order at 7:00 p.m.

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

Staff present: Rob Karlinsey, City Manager; Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance & Administration Director; Kris Overleese, Engineering & Environmental Services Director; Jennifer Gordon, Public Works Operations Manager; Leslie Harris, Management Analyst; Cliff Sether, Police Chief; 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

The following citizens spoke to express their concerns about pedestrian and bicycle safety and to offer their ideas and assistance in making safety improvements in the City:

Tammy Schoop, 15325 75th Avenue NE, Kenmore; Karissa Webster, 15325 75th Avenue NE, Kenmore; Brad Paulson, 16113 70th Avenue NE, Kenmore; Ed Quinell, 8218 NE Bothell Way, Kenmore; Liz Ellis, 19707 67th Avenue NE, Kenmore; Bob Black, 8232 NE 166th Street, Kenmore; Susan Gross, 18710 56th Avenue NE, Kenmore; Marilyn Thompson, 19312 61st Avenue NE, Kenmore; Eddie Ferrer, 16303 69th Avenue NE, Kenmore; Sara Hayashi, 14615 81st Avenue NE, Kenmore; Jeff Bussart, 6350 NE 156th Street, Kenmore; Brandi Hanson, 19325 58th Place NE, Kenmore; and Ann Bennett, 6116 NE 190th Street, Kenmore.

Ken Smith, 15816 70th Avenue NE, Kenmore, was present state his desire for a participatory budget process with community involvement in spending.

William Moran, 8364 NE Bothell Way, Kenmore, was present to state his concern about City codes regarding his property rights.

Dave Crawford, 7534 NE 175th Street, Kenmore, was present to state his concern about City spending.

John Hendrickson, 5919 NE 202nd Lane, Kenmore, was present to state his concern about taxes. He distributed a handout to citizens attending the meeting.

Mayor Baker thanked the citizens for their comments.

CONSENT AGENDA

Deputy Mayor Rogers moved to approve the consent agenda as submitted. Mayor Baker seconded the motion to Approve Check Nos. 29615 - 29678 in the Amount of \$287,074.63 and Electronically Transferred Payroll Funds Totaling \$64,094.19 for the Period Ending March 14, 2014; and to Receive and File the January 2014 Financial Report. The motion passed unanimously.

BUSINESS AGENDA

Pedestrian and Bicycle Safety – Rob Karlinsey, City Manager; Kris Overleese, City Engineer; Jennifer Gordon, Public Works Operations Manager; Fire Chief Jim Torpin and Police Chief Cliff Sether were present to give a brief staff report. City Manager Karlinsey stated that we are all devastated by the recent tragic traffic fatalities. He noted that many people in the community have offered their help and that the City needs their help. We need to come together as a community to promote education and awareness, enforcement, and engineering improvements. He detailed the short-term pedestrian and bicycle safety strategies that the City wishes to implement, including rectangular rapid flashing beacons (RRFBs) at arterial crosswalks and stepped up crosswalk enforcement. He noted that the King County engineering department is already moving on the actions that involve them. He also detailed the longer-term, ongoing safety strategies. They were also available to answer any questions.

Mayor Baker opened a special public comment period for citizens to speak about pedestrian and bicycle safety at 8:43 p.m.

The following citizens spoke to express their concerns and to offer their ideas and assistance in making safety improvements in the City:

Ben Schoop, 15325 75th Avenue NE, Kenmore; Alan Zelt, 16011 67th Lane NE, Kenmore; Glen Buhlmann, 12813 NE 83rd Street, Kirkland; David Maehren, 6316 NE 196th Street, Kenmore; Christy Sims, 6170 NE 187th Place, Kenmore; Traci Cole, 18555 58th Avenue NE, Kenmore; Bill Leak, 15102 64th Court NE, Kenmore; Brock Howell, 8584 Second Avenue NE, Seattle; Katrina Rose, 20431 73rd Place NE, Kenmore; Cindy Jensen, 15011 61st Place NE, Kenmore; Andrea Laltoo, 6177 NE 188th Place, Kenmore; Annamaria Femling, 20219 73rd Avenue NE, Kenmore; Corina Pfeil, 18904 68th Avenue NE, Kenmore; Camille Hollingsworth, 6120 NE 187th Street, Kenmore; John Hendrickson, 5919 NE 202nd Lane, Kenmore; Janet Quinn, 17012 72nd Avenue NE, Kenmore; Greg Tannar, 18521 66th Avenue NE, Kenmore; Stephanie Krambrink, 6108 NE 188th Place, Kenmore; Mark Abersold, 18903 71st Avenue NE, Kenmore; Bob Greene, 6250 NE 182nd Street, Kenmore; Doug Levy, 15619 62nd Place NE, Kenmore; Aileen Hammar, 6511 NE 192nd Place, Kenmore; Jill Reifschneider, 14846 76th Place NE, Kenmore; Corrie Pyle, 19302 59th Place NE, Kenmore; Wayne Fu, 18228 60th Avenue NE, Kenmore; Jeff Bussart, 6350 156th Street, Kenmore; Sara Hayashi, 14615 81st Avenue NE, Kenmore; and Riley J. Burrell, 14919 72nd Place NE, Kenmore.

Glen Buhlmann, Brock Howell, Katrina Rose, and Bob Greene also submitted memos to Council, and Stephanie Krambrink submitted a memo with a petition.

As there were no other citizens wishing to comment, Mayor Baker thanked the citizens for their comments and closed the special public comment period at 10:25 p.m.

Councilmember Curtis moved to implement the short-term pedestrian and bicycle safety strategies. Deputy Mayor Rogers seconded the motion. The motion passed 7-0.

Deputy Mayor Rogers moved to go forward with the longer-term, ongoing pedestrian and bicycle safety strategies. Councilmember Curtis seconded the motion. The motion passed 7-0.

2013 Annual Police Service Report – Cliff Sether, Chief of Police

Due to the lateness of the hour, it was Council consensus to postpone this business item to an upcoming meeting.

CITY COUNCILMEMBER REPORTS & COMMENTS

Councilmembers Brent Smith, Milton Curtis, Nigel Herbig, and Allan Van Ness and Deputy Mayor Glenn Rogers made brief comments regarding tonight's meeting. Councilmember Van Ness also spoke about a WRIA 8 salmon recovery meeting he attended last week with Eric Adman.

Mayor Baker stated that he and Councilmember Sperry were in Auburn today at the Muckleshoot Reservation meeting and had a productive meeting with the tribal Chair. They discussed dredging the Sammamish River and the possibility of getting Muckleshoot support.

ADJOURNMENT

Mayor Baker adjourned the regular meeting at 10:35 p.m.

David Baker, Mayor

ATTEST:

Patty Safrin, City Clerk

**City of Kenmore, Washington
City Council Special Study Session
Minutes
April 7, 2014**

CALL TO ORDER – The special meeting of the Kenmore City Council was called to order by Mayor David Baker at 6:30 p.m.

EXECUTIVE SESSION

Mayor Baker recessed the special meeting to an executive session at 6:30 p.m. to discuss Property Acquisition, pursuant to RCW 42.30.110(1)(b). He stated that the executive session will last for approximately 30 minutes and that no action is anticipated when the meeting is reconvened.

Mayor Baker extended the executive session for 5 minutes at 7:00 p.m.

Mayor Baker called the Study Session to order at 7:05 p.m.

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

Councilmembers excused: Deputy Mayor Glenn Rogers

Staff present: Rob Karlinsey, City Manager; Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance & Administration Director; Kris Overleese, Engineering & Environmental Services Director; Bryan Hampson, Development Services Director; Rod Kaseguma, City Attorney; and Patty Safrin, City Clerk

STUDY SESSION AGENDA

Center for Priority-Based Budgeting (CPBB) Webinar and Proposal – Joanne Gregory, Finance & Administration Director, was present to coordinate a webinar presented remotely by the Center for Priority-Based Budgeting staff. They reviewed the background of priority-based budgeting, which was created to help organizations link their strategic priorities to budget allocation decisions. In 2012, the International City/County Management Association (ICMA) recognized priority-based budgeting as a leading practice for local governments. They detailed the processes and tools that would be used in implementing the priority-based budgeting project. CPBB staff and Director Gregory were also available to answer any questions.

Councilmember Curtis moved to postpone the priority-based budgeting project for now. Councilmember Sperry seconded the motion. The motion failed 3-3, with Councilmembers Herbig and Smith and Mayor Baker voting no.

Councilmember Herbig moved to proceed with the priority-based budgeting project now, for the 2015-16 budget cycle. Councilmember Smith seconded the motion. The motion passed 5-1, with Councilmember Curtis voting no.

Establish a Pedestrian and Bicycle Safety Ad Hoc Committee – Rob Karlinsey, City Manager, and Kris Overleese, Engineering & Environmental Services Director, were present to give a brief staff report. City Manager Karlinsey reviewed that the Council agreed, at their March 24, 2014 meeting, to bring forward a discussion of a potential Pedestrian & Bicycle Safety Committee to this meeting. He recommended having Director Kris Overleese staff the committee with the assistance of a graduate intern. They presented options for committee size and makeup, qualifications of committee members, tasks and deliverables for the committee, and timeline. They were also available to answer any questions.

Councilmember Sperry moved to Establish a Pedestrian and Bicycle Safety Ad Hoc Committee. Councilmember Van Ness seconded the motion. The motion passed 6-0.

It was Council consensus that the Pedestrian and Bicycle Safety Committee should have seven members.

CITY COUNCILMEMBER REPORTS & COMMENTS

Mayor Baker spoke about the recent hydroplane event and his trip to Kenmore, Scotland.

ADJOURNMENT

Mayor Baker adjourned the regular meeting at 9:10 p.m.

David Baker, Mayor

ATTEST:

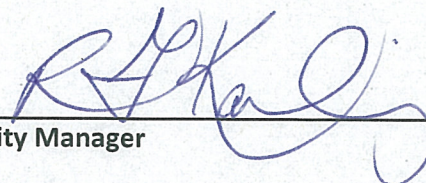
Patty Safrin, City Clerk

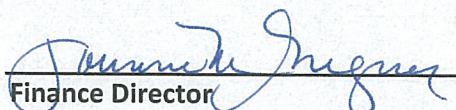
City of Kenmore

Voucher Certification and Approval

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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 29749-29813 which total \$300,468.57, and payroll check #'s 211215 & 211216 totalling \$1,133.98 and electronically transferred payroll funds totalling \$64,525.97, are just, due and unpaid obligations against the City of Kenmore/King County/Washington, and that I am authorized to authenticate and certify to said claims.


 City Manager 4/15/14
 Date


 Finance Director 4-14-14
 Date

Check #	Vendor Name	Description	Check Amount
29749	BANNER BANK PS	Training Registration & Supplies	1,151.80
29750	CULLEY, AMBERLY	Kenmore Hydro Cup Poster Printing	500.00
29751	TRINITY CONTRACTORS, INC.	PE #3 68th Ave Sidewalk 13-C1232	36,490.77
29752	HOFFMAN, GAYLE	NW Green Home Tour Sustainability Stop	750.00
29753	NATIONWIDE FINANCIAL 401a	Social Security Replacement Plan	9,972.08
29754	NATIONWIDE RETIREMENT SOLUTIONS 457	Deferred Comp Payroll Deduction	285.00
29755	ICMA RETIREMENT TRUST 457 - 304745	Deferred Comp Payroll Deduction	2,892.81
29756	DRS 457	Deferred Comp Payroll Deduction	875.00
29757	CITY OF KENMORE FS	Flexible Spending Medical Plans	232.15
29758	BANK OF AMERICA 941	Payroll Taxes	13,888.74
29759	DEPARTMENT OF RETIREMENT SYSTEMS	WA State Retirement	12,360.18
29760	STATE OF FLORIDA DISBURSEMENT UNIT	Payroll Deduction	275.00
29761	BAKER, DAVID	3/20-4/4/14 Mileage Reimbursement	264.32
29762	CITY OF BELLEVUE	Qtr 1 & 2 2014 ARCH Contributions	12,978.00
29763	CODE PUBLISHING COMPANY	KMC Web Hosting 2014-2015	350.00
29764	CONSOLIDATED PRESS	Business Development Postcard & Mailing	718.77
29765	DAILY JOURNAL OF COMMERCE	Legal Ads	90.30
29766	DEPARTMENT OF ECOLOGY	NPDES 2nd 1/2 Annual Stormwater Fee	5,790.74
29767	REPUBLIC SERVICES	March Garbage Svc - Rhod. Park & City Hall	851.53
29768	FIRST AMERICAN TITLE	6319 NE Bthl Way Guarantee Litigation	416.10
29769	FIRST AMERICAN TITLE	6016 NE Bthl Way Guarantee Litigation	755.55
29770	GEOENGINEERS INC	Kenmore Village Prof. Svcs 2/1-3/28	5,048.50
29771	GRAY & OSBORNE, INC	2/2-3/1/14 Prof. Svcs - Trib. 0057	1,414.44
29772	HOUGH BECK & BAIRD INC	Prof. Svcs for Parks Grant	412.50
29773	INSLEE, BEST, DOEZIE & RYDER, P.S.	Feb. Legal Services	22,273.90
29774	JET CITY PRINTING	Post Cards w/ Trib. 0057 Info.	175.20
29775	KING COUNTY FINANCE	Feb. Adult/Juvenile Detention CWP Program	7,750.00

X. B. Approve Check Nos. 29749 - 29813 in the Amount of \$30...

29776	KING COUNTY SHERIFF	Jan/Feb School Dist. Police O.T.	6,381.16
29777	MR. T'S TROPHIES	Nameplates/ Plaque Page 11 of 238	234.11
29778	NORTHSHORE UTILITY DIST	March Hydrant Rental for Vactor Truck	50.00
29779	OFFICE DEPOT	Office Supplies	57.14
29780	PETTY CASH CUSTODIAN	Replenish Petty Cash Fund	435.07
29781	SEATTLE TIMES	Feb. & Mar. Legal Ads	2,086.62
29782	WA STATE CONSOLIDATED TECH SVCS	March ListServ	175.00
29783	UPS STORE	March Shipping & Printing Charges	68.03
29784	UPS STORE	January Charges Printing/Copying	139.49
29785	VAN NESS, ALLAN	Feb/March Business Mtg Exp/Mileage	120.96
29786	SNOHOMISH COUNTY	March Vactor Disposal Charges	1,684.00
29787	MAIL FINANCE	Postage Machine Lease 4/14-5/13	250.76
29788	HARRIS, LESLIE	Tuition Reimbursement Winter Qtr	2,500.00
29789	KONICA MINOLTA BUSINESS SOLUTIONS	Business Incubator Feb/Mar Charges	421.09
29790	SOUND LAW CENTER	Hearing Examiner, Montessori School	3,573.50
29791	HDR	SR522 W. A Prof Svcs Nov-Feb 13-C1233	80,319.63
29792	QUALITY BUSINESS SYSTEMS	1st Floor Xerox Copies for Feb.	558.64
29793	UNIVERSAL FIELD SERVICES	Jan. SR522 West A ROW Svcs 13-C1217	4,480.57
29794	JACOBS ENGINEERING GROUP	12/28-1/24 W. Samm. Bridge Project	23,622.04
29795	SHRED-IT	Shredding Services	105.19
29796	CLARITY SIGNS	Closure & Temp. Signs for Park & Ride	394.20
29797	GORDON THOMAS HONEYWELL	March Gov't. Affairs Consulting	3,640.62
29798	FRONTIER	3/28-4/27 City Hall & Elevator	977.48
29799	PAWS	March Animal Sheltering Services	495.00
29800	WELLS FARGO FINANCIAL	1st & 2nd Floor Copier Lease March/April	2,163.12
29801	SNOHOMISH COUNTY TREASURER/ SHERIFF	March Jail Service Fees	11,925.70
29802	MILLER STEPHENS, MARY	March Public Defense Svcs - Snohomish Cty	1,250.00
29803	RONGERUDE, JOHN	Conflict Public Defender Svcs	300.00
29804	VERIZON WIRELESS	1/27-2/26 Cell Phone/I-Pad Chgs	1,899.68
29805	GREATER BOTHELL CHAMBER OF COMMERCE	Enhanced Listing in Directory	25.00
29806	HWA GEOSCIENCES INC.	181st Culvert Material Testing	900.00
29807	ALPHAGRAPHICS US718	Business Cards- Greg Lum & Cindy Shelton	101.79
29808	INNOVAC	Vactor Services	1,865.74
29809	WEISBAND, BARRY	March Incubator Consulting & Exp. Reimb.	3,258.74
29810	FASTSIGNS	Hydroplane Cup Event Shuttle Signs	105.12
29811	ACADEMI TRAINING CENTER, LLC	Police Dept. Training	800.00
29812	WA ASSOC OF PUBLIC RECORDS OFFICERS	Training Registration	140.00
29813	CPS CONSTRUCTION LLC	Kenmore Village Roof Repair	4,000.00
211215	EMILIE WICKER	Payroll Check	230.22
211216	GREG LUM	Payroll Check	903.76
4/4/2014	PAYROLL	Direct Deposit	64,525.97
			<u>\$ 366,128.52</u>

X. B. Approve Check Nos. 29749 - 29813 in the Amount of \$30...

A+ CONFERENCING	46.40
ACF WEST INC	113.88
ACTION ENTERTAINMENT	395.00
AFLAC	1,536.81
ALCALDE & FAY	10,029.38
ALPHAGRAPHICS US718	60.68
AMERICAN GENERAL	1,305.18
AMERICAN PLANNING ASSOCIATION	1,540.00
AMERICAN PUBLIC WORKS ASSOCIATION	780.00
ANDERSON, LAURI	142.38
ARTS OF KENMORE	100.00
ASSOCIATION OF WA CITIES	14,389.00
AURORA RENTS	380.29
AV CAPTURE ALL, INC.	2,176.87
AWC EMPLOYEE BENEFITS	113,307.03
BAKER, DAVID	711.44
BANK OF AMERICA 941	68,144.79
BANNER BANK BAKER	2,898.45
BANNER BANK BH	706.15
BANNER BANK CS	1,416.05
BANNER BANK DB	972.95
BANNER BANK JG	1,338.79
BANNER BANK JGORDON	4,274.38
BANNER BANK KENMORE	8,245.65
BANNER BANK LD	1,324.75
BANNER BANK NO	2,348.14
BANNER BANK ROGERS	1,726.68
BANNER BANK VAN NESS	1,720.11
BASTYR UNIVERSITY	50,000.00
BINW	1,138.63
BIOBAG AMERICAS INC.	710.83
BRIEN, GAYLYNN	100.00
BUENA VISTA SERVICES, INC.	990.00
BUILDERS EXCHANGE OF WASHINGTON INC	45.70
BULGER SAFE & LOCK, INC.	356.48
CANTEEN REFRESHMENT SERVICES	1,136.20
CASCADE PEST CONTROL	427.05
CEMEX	865.36
CITY OF BELLEVUE	22,034.01
CITY OF KENMORE	988,899.41
CITY OF KENMORE FS	1,160.75
CITY OF LAKE FOREST PARK	142,736.99
CITY OF SHORELINE	640.40
CITYWORKS/ AZTECA SYSTEMS INC.	9,995.00
CLK CONSTRUCTION LLC	3,171.48
COASTAL WEAR PRODUCTS INC	1,356.71
COASTWIDE LABORATORIES	712.22

X. B. Approve Check Nos. 29749 - 29813 in the Amount of \$30...

COLUMBIA BANK	9,863.82
COLUMBIA RIDGE LANDFILL	739.61
COMCAST	911.82
CULLEY, AMBERLY	1,750.00
CUNNINGHAM, ED	250.00
CURTIS, DR. MILTON	67.76
DAILY JOURNAL OF COMMERCE	566.20
DAY WIRELESS SYSTEMS	229.32
DEPARTMENT OF LABOR AND INDUSTRIES	5,706.54
DEPARTMENT OF RETIREMENT SYSTEMS	60,939.12
DRS 457	4,375.00
DURRANT, JEFF	167.75
EMERGENCY SERVICE COORDINATING AGCY	48,964.00
EVERGREEN PRINT SOLUTIONS	741.14
FERGUSON ENTERPRISES INC #1539	1,091.84
FIRST AMERICAN TITLE	1,369.50
FRAUSE	6,471.51
FRONTIER	1,954.92
FRUHLING SAND & TOPSOIL	231.45
GEOENGINEERS INC	2,969.25
GOODSELL POWER EQUIPMENT #2 INC.	26.21
GORDON THOMAS HONEYWELL	7,417.29
GOVERNMENTAL ACCT STANDARDS BOARD	225.00
HERBIG, NIGEL	149.79
HESTON VISUAL ARTS	700.80
HIGHWIRE	5,439.96
HOME DEPOT CREDIT SERVICES	10.91
HOPELINK	11,437.50
ICMA RETIREMENT TRUST 457 - 304745	14,464.05
INDEPENDENT STATIONERS	410.41
INNOVAC	9,704.30
INSLEE, BEST, DOEZIE & RYDER, P.S.	21,124.15
INTEGRA TELECOM	2,355.99
IWORQ SYSTEMS	1,000.00
JACOBS ENGINEERING GROUP	8,674.00
JOHN E. REID & ASSOCIATES	420.00
JOYCE ZIKER PARKINSON	3,975.00
KARLINSEY, ROB	528.08
KCDA PURCHASING COOP	80,068.85
KENMORE COMMERCIAL LLC	9,843.00
KENMORE ELEMENTARY PTA	2,000.00
KING COUNTY ANIMAL SVCS	1,055.00
KING COUNTY FINANCE	132,179.08
KING COUNTY FINANCE W.L.R.D.	2,182.00
KING COUNTY MUNICIPAL CLERKS ASSOC	25.00
KING COUNTY OFFICE OF FINANCE	1,852.42
KING COUNTY RADIO COMM SERVICES	271.95
KING COUNTY RECORDER'S OFFICE	549.00
KING COUNTY SHERIFF	3,080.29

KING CTY EASTSIDE TRANSP PARTNERSH	200.00
KONICA MINOLTA BUSINESS SOLUTIONS	209.32
KUSTOM SIGNALS, INC.	9,260.26
LIGHTHOUSE CONSULTING INC	11,521.32
MAIL FINANCE	752.28
MILLER STEPHENS, MARY	2,500.00
MINZGHOR, NICHOLAS	343.75
MR. T'S TROPHIES	54.31
MULVIHILL, MARJORIE	250.00
NATIONAL LIFE OF VERMONT	704.67
NATIONWIDE FINANCIAL 401a	49,233.38
NATIONWIDE RETIREMENT SOLUTIONS 457	1,285.00
NEW PIG	3,440.64
NORTH COAST ELECTRIC	1,154.78
NORTHSHORE FIRE DEPT	620.00
NORTHSHORE PARK & REC SERVICE AREA	1,360.00
NORTHSHORE PAVING INC	6,099.11
NORTHSHORE ROTARY CLUB	202.00
NORTHSHORE SENIOR CENTER	3,300.00
NORTHSHORE UTILITY DIST	9,181.10
NORTHWEST LANDSCAPE SERVICES	3,599.43
OFFICE DEPOT	2,166.04
OLYMPIC ENVIRONMENTAL RESOURCES INC	5,995.89
OLYMPUS PURSUITS/ SHAWN JOHNSON	600.00
OSBORN CONSULTING INC.	37,539.22
OUSLEY, NANCY	283.66
OVERLEESE, KRISTEN	103.86
PACIFIC TOPSOILS	3,203.91
PART WORKS INC	703.74
PAWS	1,650.00
PENDLETON, MICHAEL	3,253.14
PEOPLES STORAGE	552.00
PERTEET INC.	27,310.38
PHSI PURE WATER FINANCE	452.82
PUGET SOUND CLEAN AIR AGENCY	11,500.00
PUGET SOUND ENERGY	41,676.07
PUGET SOUND FINANCE OFFICERS ASSOC	50.00
PURE WATER TECHNOLOGY OF PUGET SOUND	224.26
QUALITY BUSINESS SYSTEMS	896.64
REPUBLIC SERVICES	1,697.96
ROAD CONSTRUCTION NW, INC.	206,153.81
ROGERS, GLENN	64.96
SARAH ROBERTS	20,604.00
SCHWARZWALTER, MARK	180.00
SEATTLE TIMES	543.79
SEES TREES AND EXCAVATION INC	700.80
SESAC	343.00
SHARAM FAMILY	3,484.30
SHRED-IT	99.00

SMITH, BRENT	68.32
SNOHOMISH COUNTY	2,080.00
SNOHOMISH COUNTY SHERIFF'S OFFICE	1,407.82
SNOHOMISH COUNTY TREASURER/ SHERIFF	20,395.34
SOUND CITIES ASSOC	11,850.97
SOUND PUBLISHING, INC.	909.29
SPERRY, LAURIE	63.84
ST OF WA DEPT OF FISH & WILDLIFE	7,838.00
STATE OF FLORIDA DISBURSEMENT UNIT	1,375.00
STATE OF WA DEPT. OF LICENSING	30.00
STEWART MACNICHOLS HARMELL, INC.	11,000.00
SUSSMAN/PREJZA & CO, INC	196.25
THE KIPLINGER LETTER	99.00
TIMEMARK INCORPORATED	111.58
TOPIA TECHNOLOGY/ BIS	600.00
TOTAL LANDSCAPE CORP	15,467.73
TOWNE CENTRE HARDWARE	497.39
TRANE U.S. INC.	4,058.00
TRINITY CONTRACTORS, INC.	89,800.51
UNITED RENTALS NW, INC	1,232.03
UNITED STATES POSTMASTER	104.59
UNITED WAY OF KING COUNTY	1,368.00
UNIVERSAL FIELD SERVICES	7,606.95
UPS STORE	105.22
URBAN LAND INSTITUTE	215.00
US POSTAL SERVICE (HASLER)	5,118.83
UTILITIES UNDERGROUND LOCATION CTR	228.33
VAN NESS, ALLAN	574.84
VERIZON WIRELESS	1,839.42
VERTICAL VISUAL SOLUTIONS INC.	6,030.71
WA ASSOC OF BUILDING OFFICIALS	600.00
WA CITIES INSURANCE AUTHORITY	186,493.00
WA FINANCE OFFICERS ASSOCIATION	150.00
WA GUARANTEED EDUCATION TUITION	300.00
WA STATE CONSOLIDATED TECH SVCS	350.00
WA STATE DEPT OF LABOR & INDUSTRIES	125.30
WA STATE DEPT OF TRANSPORTATION	3,056.91
WA WILDLIFE & RECREATION COALITION	125.00
WAGE WORKS	150.00
WEISBAND, BARRY	6,000.00
WELLS FARGO FINANCIAL	2,163.12
WILDCLIFFE MANOR, LLC	7,956.00
WINDOW CLEANING & MORE	2,400.00
WONDERLAND DEVELOPMENT	2,250.00
ZONAR SYSTEMS	525.33
	<u>\$2,821,361.25</u>

X. B. Approve Check Nos. 29749 - 29813 in the Amount of \$30...



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Public Hearing and Deliberation on Ordinance No. 14-0380 Extending the Moratorium on the Acceptance and Filing of Applications for, and the Licensing, Establishment, Location, Operation, Maintenance and Continuation of Marijuana Businesses and Marijuana Operations under Washington State Initiative No. 502	For Council Meeting Agenda of: 4/28/14										
Proposed Council Action/Motion: Hold a public hearing to receive input on possible continuation of the marijuana businesses and marijuana operations moratorium put in place by the City Council through adoption of Ordinance No. 13-0362 on June 24, 2013, extended on December 2, 2013, and expiring on May 12, 2014. Adopt Ordinance No. 14-0380 to extend the current moratorium on the acceptance and filing of applications for, and the licensing, establishment, location, operation, maintenance and continuation of marijuana businesses and marijuana operations under Washington State Initiative No. 502 to and through November 7, 2014.	Department: <u>Community Development</u> Prepared by: <u>Debbie Bent, Community Development Director and Lauri Anderson, Senior Planner</u> <table border="0"><tr><td></td><td>Initial & Date</td></tr><tr><td>Approved by Department Head:</td><td><u>DB 4/10/14</u></td></tr><tr><td>Approved by City Attorney:</td><td><u>RK email, 4/10/14</u></td></tr><tr><td>Approved by Finance Director:</td><td><u>Greg 4/15/14</u></td></tr><tr><td>Approved by City Manager:</td><td></td></tr></table> Exhibits/Attachments: 1. Ordinance 13-0362 2. Ordinance 13-0370 3. Proposed Ordinance 14-0380		Initial & Date	Approved by Department Head:	<u>DB 4/10/14</u>	Approved by City Attorney:	<u>RK email, 4/10/14</u>	Approved by Finance Director:	<u>Greg 4/15/14</u>	Approved by City Manager:	
	Initial & Date										
Approved by Department Head:	<u>DB 4/10/14</u>										
Approved by City Attorney:	<u>RK email, 4/10/14</u>										
Approved by Finance Director:	<u>Greg 4/15/14</u>										
Approved by City Manager:											
Expenditure Required \$0	Amount Budgeted \$0	Appropriation Required \$0									
<u>INFORMATION/BACKGROUND:</u> On June 24, 2013, the City Council adopted Ordinance 13-0362 (Attachment 1) establishing a moratorium that prohibits the acceptance and filing of applications for, and the licensing (including business licensing), establishment, location, operation, maintenance or continuation of marijuana businesses or any other marijuana activities and marijuana operations asserted to be authorized or actually authorized under Washington State Initiative No. 502. In addition, Ordinance 13-0362 included a provision that no use that constitutes or purports to be a marijuana business or other marijuana operation that was engaged in prior to the passage of the Ordinance shall be deemed to have been legally established under the Kenmore Municipal Code and shall not be entitled to legal nonconforming status. The moratorium was adopted for a 6-month period from the June 24, 2013 effective date of the											

Ordinance through December 24, 2013. The moratorium was extended until May 12, 2014 by Ordinance 03-0370 (see Attachment 2) after a public hearing. The moratorium automatically expires on May 12, 2014 unless it is repealed, modified or extended after a public hearing and entry of findings. The Ordinance authorizes the City Manager to research and analyze the extent and impact of Initiative 502, to consider and develop an appropriate regulatory framework for marijuana producers, processors, retailers, or operations in the City, and to monitor and provide input into the rules being developed by the Washington State Liquor Control Board (LCB).

The City Council will be providing direction to staff on their preferred approach to regulating marijuana businesses (and marijuana collective gardens) on the April 28 agenda. Given that development of new regulations, with associated public hearings, will not be finalized before the current expiration deadline of the moratorium, an extension is recommended.

Proposed Ordinance 14-0380 would authorize this extension (Attachment 3).

State law requires that the city hold a public hearing on the moratorium extension. After the public hearing the City Council will consider the extension.

Background On Initiative 502

Initiative 502 which legalizes, taxes and regulates use of marijuana in Washington by persons 21 and older was approved on the November 2012 Washington State ballot. The law took effect on December 6, 2012.

Under I-502, the LCB had to establish procedures and criteria for licensing marijuana businesses by December 1, 2013. LCB has issued their rules and the Washington State Business Licensing Service began accepting applications for marijuana businesses on November 18, 2013. The application window closed on December 20, 2013.

Three new marijuana licenses are authorized: producer, processor, and retailer. The fee for each license is a \$250 application fee and \$1000 annual renewal fee. The marijuana producer license allows production of marijuana for sale at wholesale to marijuana processors and allows for production, possession, delivery, and distribution. The marijuana processor license allows for processing, packaging, and labeling of marijuana/marijuana infused product for sale at wholesale to marijuana retailers and allows for processing, packaging, possession, delivery, and distribution. The marijuana retailer license allows for sale of useable marijuana/marijuana infused products at retail outlets regulated by the LCB.

The LCB has determined the maximum number of retail outlets in each county, in order to provide adequate access to licensed products and to discourage purchases from the illegal market. Kenmore was not identified as a license location, although an applicant could apply to the LCB for a license in the city as one of the 11 "at-large" locations in King County.

Premises of marijuana businesses cannot be within 1000' of perimeter of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or game arcade that admits persons under 21 years of age. The LCB rules specify that "public park" does not include trails such as the Burke-Gilman.

Although the Initiative supports the production and use of recreational marijuana, the federal government continues to treat marijuana as a “Schedule I” drug—illegal in all respects except for research studies. The U.S. Department of Justice has advised that as long as states adopting laws governing marijuana have “sufficiently robust” regulatory and enforcement systems” (on paper and in practice) to address the federal government’s eight identified enforcement priorities (such as preventing the distribution of marijuana to minors, preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels, and preventing the diversion of marijuana from states where it is legal under state law in some form to other states, regardless of state law), then “enforcement of state laws by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity”. If the state enforcement efforts are not sufficiently robust, the federal government may seek to challenge the regulatory system itself.

The LCB has received license applications for a producer and processor business at 8142 NE 145th Place. As of April 3, 2014, the LCB had not assigned an investigator to review the application. Staff anticipates that the license will not move forward as the location appears to be in a single-family home (not permitted).

The LCB has received license applications for 10 retail businesses, all using the same address: 6323 NE Bothell Way. It is possible that all of these applications will be entered into the lottery as they all have unique state business license numbers. (This is a change in LCB policy. LCB staff previously had stated that they would enter only one application per physical location into the lottery.)

Even if the LCB issues a license, the applicant must still seek City approval to locate in Kenmore.

FISCAL CONSIDERATION:

None at this time. In the near future, staff time will be required to review the issues surrounding marijuana businesses and operations and develop a regulatory approach.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Comprehensive Plan Vision Statement: “We see Kenmore as a community that is attentive to, and seeks to provide for, the health, safety, and welfare of all its citizens.”

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

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 13-0362**

AN INTERIM ORDINANCE OF THE CITY OF KENMORE, WASHINGTON, ADOPTING A SIX-MONTH MORATORIUM ON THE ACCEPTANCE AND FILING OF APPLICATIONS FOR, AND THE LICENSING, ESTABLISHMENT, LOCATION, OPERATION, MAINTENANCE AND CONTINUATION OF MARIJUANA BUSINESSES AND MARIJUANA OPERATIONS UNDER WASHINGTON STATE INITIATIVE NO. 502; SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the cultivation, possession or distribution of cannabis (marijuana) and marijuana products has been and continues to be a violation of federal law through 21 U.S.C. § 812(c), the Controlled Substances Act ("CSA"); and

WHEREAS, two United States Attorneys (Department of Justice) in Washington state have stated that marijuana is a Schedule I controlled substance under federal law, and as such, growing, distributing and possessing marijuana in any capacity other than as part of a federally authorized research program is a violation of federal law, and also have concluded that local governmental employees who conduct and engage in marijuana regulatory activities under Washington state law are subject to prosecution under the CSA; and

WHEREAS, in 2012, in response to a letter from the Clark County, Washington, Board of Commissioners, Joseph T. Rannazzisi, Deputy Assistant Administrator, Office of Division Control, U.S. Department of Justice, Drug Enforcement Administration, stated that anyone who knowingly carries out marijuana activities that are inconsistent with the CSA but consistent with Washington state law, as well as anyone who facilitates such activities, or conspires to commit such activities, is subject to criminal prosecution under the CSA; and

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

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

WHEREAS, the LCB has just issued initial draft rules, but does not anticipate adopting final rules until mid-August 2013 and does not anticipate issuing licenses for marijuana businesses until December 2013; and

WHEREAS, Initiative 502 prohibits marijuana businesses within 1,000 feet of certain uses and buildings, such as child care centers, public parks and recreation centers or facilities, but does not define such uses and buildings, creating uncertainty as to the application of the distance restriction in the City; and

WHEREAS, Initiative 502 does not address the issue of whether the LCB, in granting licenses to marijuana businesses, must comply with land use and zoning restrictions of local jurisdictions, such as the City; and

WHEREAS, such issue might be addressed by the LCB in its draft and final rules; and

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

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

WHEREAS, RCW 69.51A.150 authorizes the City to adopt and enforce zoning requirements, business licensing requirements and health and safety requirements pertaining to the production, processing or dispensing of marijuana and marijuana products; and

WHEREAS, the operation of marijuana businesses under Initiative 502 would be a violation of the CSA, and would be subject to the statements and conclusions of the United States Attorneys mentioned above, and the letter of Joseph T. Rannazzisi mentioned above; and

WHEREAS, because the possession or distribution of marijuana has been and remains a violation of both the Washington Uniform Controlled Substances Act and the CSA, the City has not studied or implemented zoning and licensing regulations for marijuana businesses; and

WHEREAS, given the complexity of the relevant issues, the City needs time to conduct appropriate research and analysis in order to understand the extent and impact of Initiative 502, determine the appropriate regulatory framework for the permitting, licensing and operation of marijuana businesses in the City, and monitor and provide input into the rules being developed by the LCB; and

WHEREAS, City staff has learned from other cities that persons and businesses which anticipate applying for marijuana business licenses with the LCB already have inquired about applying for city business licenses and development permits and approvals for such marijuana businesses; and

WHEREAS, the City Council deems it to be in the best interests of the public, and necessary for the protection of the public health, safety, property or peace, to establish a zoning moratorium on marijuana businesses and marijuana operations authorized or asserted to be authorized under Initiative 502, pending consideration of land use regulations to address such marijuana businesses and marijuana operations, in view of the rules being adopted by the LCB; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to adopt a moratorium on development or land use for six-months, and hold a public hearing on the moratorium within sixty (60) days of the initial adoption of the moratorium; now, therefore

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

Section 1. Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of the moratorium imposed by this Ordinance. The City Council may, in its discretion, adopt additional or revised findings at the conclusion of the public hearing referenced in Section 4 below.

Section 2. Moratorium. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, a zoning moratorium is hereby enacted in the City that prohibits the filing and acceptance of applications for, and the licensing (including business licensing), establishment, location, operation, maintenance or continuation of marijuana businesses, or any other marijuana activities and operations asserted to be authorized or actually authorized under Washington state Initiative No. 502 ("other marijuana operations"). A "marijuana business" is marijuana producer, marijuana processor or marijuana retailer as defined in Initiative No. 502.

Section 3. No Nonconforming Uses. No use that constitutes or purports to be a marijuana business or other marijuana operation that was engaged in prior to the passage of this Ordinance shall be deemed to have been legally established under the Kenmore Municipal Code and shall not be entitled to legal nonconforming status.

Section 4. Public Hearing. As provided in RCW 35A.63.220 and RCW 36.70A.390, the City Council sets a public hearing for July 15, 2013, which shall begin at 7:00 p.m. or as soon thereafter as the business of the City Council shall permit, in order to take public testimony and consider adopting further findings justifying the imposition of the moratorium set forth in Section 2 above.

Section 5. Duration. The moratorium established in Section 2 above shall be in effect for a period of six (6) months from the effective date of this Ordinance (to and through December 24, 2013), and shall automatically expire on that date unless repealed, modified, or extended after subsequent public hearing and entry of appropriate findings of fact as provided in RCW 35A.63.220 and RCW 36.70A.390.

Section 6. Authorization of City Manager. The City Manager is hereby authorized and directed to research and analyze the extent and impact of Initiative 502, to consider and develop an appropriate regulatory framework for marijuana businesses and marijuana operations in the City, and to monitor and provide input into the rules being developed by the Washington State Liquor Control Board.

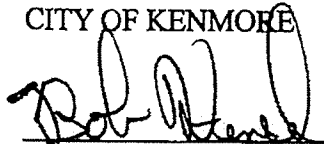
Section 7. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction,

the remainder of the Ordinance, or the application of the provision to other persons or circumstances, is not affected.

Section 8. Emergency; Effective Date. This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to Matson v. Clark County Board of Commissioners, 79 Wn.App. 641, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the recitals set forth above, which are adopted by reference.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 24TH DAY OF JUNE, 2013.

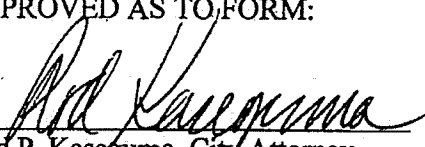
CITY OF KENMORE


David Baker, Mayor

ATTEST/AUTHENTICATED:


Patty Safrin, City Clerk

APPROVED AS TO FORM:


Rod P. Kaseguma, City Attorney

FILED WITH THE CITY CLERK: June 14, 2013
PASSED BY THE CITY COUNCIL: June 24, 2013
DATE OF PUBLICATION: June 27, 2013
EFFECTIVE DATE: June 24, 2013
ORDINANCE NO.: 13-0362

CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 13-0370

AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON, EXTENDING FOR SIX MONTHS THE CITY'S MORATORIUM ON THE ACCEPTANCE AND FILING OF APPLICATIONS FOR, AND THE LICENSING, ESTABLISHMENT, LOCATION, OPERATION, MAINTENANCE AND CONTINUATION OF MARIJUANA BUSINESSES AND MARIJUANA OPERATIONS UNDER WASHINGTON STATE INITIATIVE NO. 502; AMENDING SECTION 5 OF ORDINANCE 13-0362; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the cultivation, possession or distribution of cannabis (marijuana) and marijuana products has been and continues to be a violation of federal law through 21 U.S.C. § 812(c), the Controlled Substances Act ("CSA"); and

WHEREAS, two United States Attorneys (Department of Justice) in Washington State have stated that marijuana is a Schedule I controlled substance under federal law, and as such, growing, distributing and possessing marijuana in any capacity other than as part of a federally authorized research program is a violation of federal law, and also have concluded that local governmental employees who conduct and engage in marijuana regulatory activities under Washington State law are subject to prosecution under the CSA; and

WHEREAS, in 2012, in response to a letter from the Clark County, Washington, Board of Commissioners, Joseph T. Rannazzisi, Deputy Assistant Administrator, Office of Division Control, U.S. Department of Justice, Drug Enforcement Administration, stated that anyone who knowingly carries out marijuana activities that are inconsistent with the CSA but consistent with Washington State law, as well as anyone who facilitates such activities, or conspires to commit such activities, is subject to criminal prosecution under the CSA; and

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

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

WHEREAS, on August 29, 2013, while the LCB was considering such rules, the United States Department of Justice issued a memorandum to all United States Attorneys, entitled "Guidance Regarding Marijuana Enforcement" ("Department of Justice Memorandum", in which the Department advised that as long as states adopting laws governing marijuana have "sufficiently robust" regulatory and enforcement systems" (on paper and in practice) to address the federal government's eight identified enforcement priorities (such as preventing the distribution of marijuana to minors, preventing revenue from the sale of marijuana from going to

criminal enterprises, gangs and cartels, and preventing the diversion of marijuana from states where it is legal under state law in some form to other states, regardless of state law), then “enforcement of state laws by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity”; and

WHEREAS, in the Department of Justice Memorandum, the Department emphasized that Congress has determined marijuana to be a dangerous drug, that the illegal distribution and sale of marijuana is a serious crime and that the Department is committed to enforcement of the federal Controlled Substances Act; and

WHEREAS, in the Department of Justice Memorandum, the Department warned that “if state enforcement efforts are not sufficiently robust to protect against [the harms mentioned in the eight enforcement priorities], the federal government may seek to challenge the regulatory system itself”; and

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

WHEREAS, acknowledging the lack of interaction and coordination between Initiative 502 and Chapter 69.51A RCW (relating to medical marijuana), the Legislature in Section 141(2) of 3ESSB 5034, the State operating budget for the fiscal biennium of July 1, 2013 through June 30, 2015 (“Marijuana Coordination Law”), directed the LCB to work with the Departments of Revenue and Health to develop recommendations for the Legislature by January 1, 2014 regarding the interaction of medical marijuana regulations and Initiative 502; and

WHEREAS, the Marijuana Coordination Law, among other things, directs the LCB and Departments to develop recommendations on that include collective gardens, possession amounts, location requirements, medical marijuana producing, processing and retail licensing requirements, and taxation of medical marijuana in relation to recreational marijuana; and

WHEREAS, the LCB has developed Marijuana Coordination Law draft recommendations and is currently reviewing them, with a goal of finalizing them in December 2013; and

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

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

WHEREAS, RCW 69.51A.140 authorizes the City to adopt and enforce zoning requirements, business licensing requirements and health and safety requirements pertaining to the production, processing or dispensing of marijuana and marijuana products; and

WHEREAS, the operation of marijuana businesses under Initiative 502 would be a violation of the CSA, and would be subject to the statements and conclusions of the United States Attorneys mentioned above, the letter of Joseph T. Rannazzisi mentioned above, and the Department of Justice Memorandum mentioned above; and

WHEREAS, because the possession or distribution of marijuana has been and remains a violation of both the Washington Uniform Controlled Substances Act and the CSA, the City has not studied or implemented zoning and licensing regulations for marijuana businesses; and

WHEREAS, given the complexity of the relevant issues, the City needs time to conduct appropriate research and analysis in order to understand the extent and impact of Initiative 502, and determine the appropriate regulatory framework for the permitting, licensing and operation of marijuana businesses in the City; and

WHEREAS, persons and businesses which anticipate applying for marijuana business licenses with the LCB already have inquired about applying for City business licenses and development permits and approvals for such marijuana businesses; and

WHEREAS, on June 24, 2013, the City Council passed Ordinance No. 13-0362 (effective June 24, 2013), which prohibits the filing and acceptance of applications for, and the licensing (including business licensing), establishment, location, operation, maintenance or continuation of marijuana businesses, or any other marijuana activities and operations asserted to be authorized or actually authorized under Washington State Initiative No. 502 ("other marijuana operations"); and

WHEREAS, on July 15, 2013, the City Council held a public hearing on the zoning moratorium established in Ordinance No. 13-0362, at which time City staff and members of the public had the opportunity to present testimony and other evidence in support of or against the moratorium, and after considering all the evidence presented at the hearing, the City Council made no changes to the moratorium; and

WHEREAS, the City Council deems it to be in the best interests of the public, and necessary for the protection of the public health, safety, property or peace, to extend for six months the zoning moratorium on marijuana businesses and marijuana operations authorized or asserted to be authorized under Initiative 502, pending consideration of land use regulations to address such marijuana businesses and marijuana operations, in view of the rules and recommendations being adopted by the LCB; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to renew a moratorium on development or land use for a six-month period if a subsequent public hearing is held and findings of fact are made prior to the renewal; and

WHEREAS, on December 2, 2013, the City Council held a public hearing on the extension for six months of the zoning moratorium established by Ordinance No. 13-0362, at which time City staff and members of the public had the opportunity to present testimony and other evidence in support of or against the extension of the moratorium; now, therefore

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

Section 1. Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of the extension for six months of the moratorium imposed by Ordinance No. 13-0362.

Section 2. Extension of Moratorium. Section 5 of Ordinance No. 13-0362 is amended to read as follows:

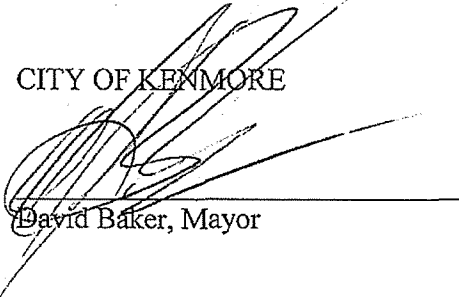
The moratorium established in Section 2 above shall be in effect ~~for a period of six (6) months from the effective date of this Ordinance (to and through December 24, 2013)~~ until May 12, 2014, and shall automatically expire on that date unless repealed, modified, or extended after subsequent public hearing and entry of appropriate findings of fact as provided in RCW 35A.63.220 and RCW 36.70A.390.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance, or the application of the provision to other persons or circumstances, is not affected.

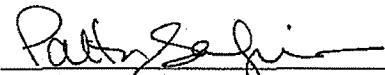
Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 2nd DAY OF DECEMBER, 2013.

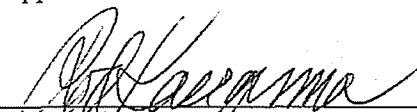
CITY OF KENMORE


David Baker, Mayor

ATTEST/AUTHENTICATED:


Patty Safrin, City Clerk

Approved as to form:


Rod P. Kaseguma, City Attorney

Filed with the City Clerk: November 22, 2013
Passed by the City Council: December 2, 2013
Date of Publication: December 6, 2013
Effective Date: December 11, 2013
ORDINANCE No. 13-0370

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 14-0380**

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, EXTENDING FOR SIX MONTHS THE
CITY'S MORATORIUM ON THE ACCEPTANCE AND
FILING OF APPLICATIONS FOR, AND THE LICENSING,
ESTABLISHMENT, LOCATION, OPERATION,
MAINTENANCE AND CONTINUATION OF MARIJUANA
BUSINESSES AND MARIJUANA OPERATIONS UNDER
WASHINGTON STATE INITIATIVE NO. 502; AMENDING
SECTION 2 OF ORDINANCE 13-0370; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the cultivation, possession or distribution of cannabis (marijuana) and marijuana products has been and continues to be a violation of federal law through 21 U.S.C. § 812(c), the Controlled Substances Act ("CSA"); and

WHEREAS, two United States Attorneys (Department of Justice) in Washington state have stated that marijuana is a Schedule I controlled substance under federal law, and as such, growing, distributing and possessing marijuana in any capacity other than as part of a federally authorized research program is a violation of federal law, and also have concluded that local governmental employees who conduct and engage in marijuana regulatory activities under Washington state law are subject to prosecution under the CSA; and

WHEREAS, in 2012, in response to a letter from the Clark County, Washington, Board of Commissioners, Joseph T. Rannazzisi, Deputy Assistant Administrator, Office of Division Control, U.S. Department of Justice, Drug Enforcement Administration, stated that anyone who knowingly carries out marijuana activities that are inconsistent with the CSA but consistent with Washington state law, as well as anyone who facilitates such activities, or conspires to commit such activities, is subject to criminal prosecution under the CSA; and

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

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

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

WHEREAS, in the Department of Justice Memorandum, the Department emphasized that Congress has determined marijuana to be a dangerous drug, that the illegal distribution and sale of marijuana is a serious crime and that the Department is committed to enforcement of the federal Controlled Substances Act; and

WHEREAS, in the Department of Justice Memorandum, the Department warned that "if state enforcement efforts are not sufficiently robust to protect against [the harms mentioned in the eight enforcement priorities], the federal government may seek to challenge the regulatory system itself"; and

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

WHEREAS, acknowledging the lack of interaction and coordination between Initiative 502 and Chapter 69.51A RCW (relating to medical marijuana), the Legislature in Section 141(2) of 3ESSB 5034, the State operating budget for the fiscal biennium of July 1, 2013 through June 30, 2015 ("Marijuana Coordination Law"), directed the LCB to work with the Departments of Revenue and Health to develop recommendations for the Legislature by January 1, 2014 regarding the interaction of medical marijuana regulations and Initiative 502; and

WHEREAS, the Marijuana Coordination Law, among other things, directs the LCB and Departments to develop recommendations on collective gardens, possession amounts, location requirements, medical marijuana producing, processing and retail licensing requirements, and taxation of medical marijuana in relation to recreational marijuana; and

WHEREAS, the LCB finalized the Marijuana Coordination Law draft recommendations and sent them to the Legislature; and

WHEREAS, the Legislature did not address the draft recommendations despite the introduction of several bills; and

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

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

WHEREAS, RCW 69.51A.140 authorizes the City to adopt and enforce zoning requirements, business licensing requirements and health and safety requirements pertaining to the production, processing or dispensing of marijuana and marijuana products; and

WHEREAS, the operation of marijuana businesses under Initiative 502 would be a violation of the CSA, and would be subject to the statements and conclusions of the United States Attorneys mentioned above, the letter of Joseph T. Rannazzisi mentioned above, and the Department of Justice Memorandum mentioned above; and

WHEREAS, on January 16, 2014, the Attorney General of Washington issued AGO 2014 No. 2, which concluded that Initiative 502 does not preempt local governments from licensing and regulating marijuana businesses, and that local governments may establish regulations that make it impractical for marijuana businesses to locate within their boundaries, as long as the regulations are a reasonable exercise of the police power (that is, they promote public safety, health, or welfare and bear a reasonable and substantial relation to accomplishing the purpose pursued); and

WHEREAS, persons and businesses which have applied for marijuana business licenses with the LCB have inquired about applying for city business licenses and development permits and approvals for such marijuana businesses; and

WHEREAS, on June 24, 2013, the City Council passed Ordinance No. 13-0362 (effective June 24, 2013), which prohibits the filing and acceptance of applications for, and the licensing (including business licensing), establishment, location, operation, maintenance or continuation of marijuana businesses, or any other marijuana activities and operations asserted to be authorized or actually authorized under Washington state Initiative No. 502 ("other marijuana operations"); and

WHEREAS, on July 15, 2013, the City Council held a public hearing on the zoning moratorium established in Ordinance No. 13-0362, at which time City staff and members of the public had the opportunity to present testimony and other evidence in support of or against the moratorium, and after considering all the evidence presented at the hearing, the City Council made no changes to the moratorium; and

WHEREAS, on December 2, 2013, the City Council held a public hearing on an extension of the zoning moratorium established in Ordinance No. 13-0362, at which time City staff and members of the public had the opportunity to present testimony and other evidence in support of or against the moratorium, and after considering all the evidence presented at the hearing, the City Council passed Ordinance No. 13-0370, extending the moratorium until May 12, 2014; and

WHEREAS, on April 28, 2014, the City Council held a public hearing on the extension for an additional six months of the zoning moratorium established by Ordinance No. 13-0362, at which time City staff and members of the public had the opportunity to present testimony and other evidence in support of or against the extension of the moratorium; and

WHEREAS, Section 6 of Ordinance No. 13-0362 authorizes and directs the City Manager to research and analyze the extent and impact of Initiative 502 and to consider and develop an appropriate regulatory framework for marijuana businesses and marijuana operations in the City; and

WHEREAS, at the direction of the City Manager, City staff has developed a framework and outline of general approaches that the City could take to address marijuana businesses and marijuana operations in the City; and

WHEREAS, the City needs additional time to consider such framework and outline, to conduct appropriate research and analysis, and to understand the extent and impact of Initiative 502 and the LCB application processing scheme, in order to determine the appropriate regulatory framework for the permitting, licensing and operation of marijuana businesses in the City; and

WHEREAS, the City Council deems it to be in the best interests of the public, and necessary for the protection of the public health, safety, property or peace, to extend for an additional six months the zoning moratorium on marijuana businesses and marijuana operations authorized or asserted to be authorized under Initiative 502, pending consideration of regulations to address such marijuana businesses and marijuana operations; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to renew a moratorium on development or land use for a six-month period if a subsequent public hearing is held and findings of fact are made prior to the renewal; now, therefore

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

Section 1. Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of the extension for six months of the moratorium originally imposed by Ordinance No. 13-0362.

Section 2. Extension of Moratorium. Section 2 of Ordinance No. 13-0370 is amended to read as follows:

The moratorium established in Section 2 above shall be in effect until November 7, 2014, and shall automatically expire on that date unless repealed, modified, or extended

after subsequent public hearing and entry of appropriate findings of fact as provided in RCW 35A.63.220 and RCW 36.70A.390.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance, or the application of the provision to other persons or circumstances, is not affected.

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in force five (5) days after the date of publication.

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

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.:

Date of Publication:

Effective Date:



City Council Business Agenda Item City of Kenmore, WA

Subject/Topic: Public Hearing and Deliberation on Ordinance No. 14-0381 Extending the Interim Zoning Regulation that Prohibits Marijuana Businesses in the R-1, R-4, and R-6 Single-Family Residential Zoning Districts. Proposed Council Action/Motion: Hold a public hearing to receive input on possible continuation of the interim zoning regulation put in place by the City Council through adoption of Ordinance No. 13-0369 on November 12, 2013 and expiring on May 12, 2014. After the public hearing, adopt Ordinance No. 14-0381 to extend the current interim zoning regulation that prohibits marijuana businesses in the R-1, R-4, and R-6 single-family residential zoning districts to and through November 7, 2014.	For Council Meeting Agenda of: 4/28/14 Department: <u>Community Development</u> Prepared by: <u>Debbie Bent, Community Development Director and Lauri Anderson, Senior Planner</u> Initial & Date Approved by Department Head: <u>DS 4/10/14</u> Approved by City Attorney: <u>RK email, 4/10/14</u> Approved by Finance Director: <u>Jmg 4/15/14</u> Approved by City Manager: _____ Exhibits/Attachments: 1. Ordinance 13-0369 2. Proposed Ordinance 14-0381 3. Map of Potential Locations
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Expenditure Required \$0

Amount Budgeted \$0

Appropriation Required \$0

INFORMATION/BACKGROUND:

On November 12, 2013, the City Council adopted Ordinance 13-0369 (Attachment 1) establishing an interim zoning regulation that makes marijuana businesses a prohibited use in the City's single-family residential zones—R1, R4 and R6. A marijuana business is a marijuana producer, marijuana processor or marijuana retailer as defined in Washington State Initiative 502.

This interim zoning regulation does not affect the moratorium of Ordinance 13-0362 which prohibits the filing and acceptance of applications for, and the licensing (including business licensing), establishment, location, operation, maintenance or continuation of marijuana businesses or any other marijuana activities and marijuana operations asserted to be authorized or actually authorized under Washington State Initiative No. 502. The moratorium and interim zoning regulation run in parallel.

The interim zoning regulation was adopted for a 6-month period from the November 12, 2013 effective date of the Ordinance through May 12, 2014. The interim zoning regulation automatically expires on May 12, 2014 unless it is repealed, modified or extended after a public hearing and entry of findings.

The Ordinance authorizes the City Manager to research and analyze the environmental, land use and other impacts of marijuana business in the City and to determine the appropriate regulatory

framework for the location, operation, permitting and licensing of marijuana businesses in the city.

It is anticipated that the City Council will be providing direction to staff on their preferred approach to regulating marijuana businesses (and marijuana collective gardens) at the April 28 City Council meeting. Given that development of new regulations, with associated public hearings, will not be finalized before the current expiration deadline of the interim regulation, an extension is recommended.

Proposed Ordinance 14-0381 would authorize this extension (Attachment 2). State law requires that the city hold a public hearing on the extension. After the public hearing the City Council will consider the extension.

Background On Initiative 502

Initiative 502 which legalizes, taxes and regulates use of marijuana in Washington by persons 21 and older was approved on the November 2012 Washington State ballot. The law took effect on December 6, 2012.

Under I-502, the LCB had to establish procedures and criteria for licensing marijuana businesses by December 1, 2013. LCB has issued their rules and the Washington State Business Licensing Service began accepting applications for marijuana businesses on November 18, 2013. The application window closed on December 20, 2013.

Three new marijuana licenses are authorized: producer, processor, and retailer. The fee for each license is a \$250 application fee and \$1000 annual renewal fee. The marijuana producer license allows production of marijuana for sale at wholesale to marijuana processors and allows for production, possession, delivery, and distribution. The marijuana processor license allows for processing, packaging, and labeling of marijuana/marijuana infused product for sale at wholesale to marijuana retailers and allows for processing, packaging, possession, delivery, and distribution. The marijuana retailer license allows for sale of useable marijuana/marijuana infused products at retail outlets regulated by the LCB.

The LCB has determined the maximum number of retail outlets in each county, in order to provide adequate access to licensed products and to discourage purchases from the illegal market. Kenmore was not identified as a license location, although an applicant could apply to the LCB for a license in the city as one of the 11 "at-large" locations in King County.

Premises of marijuana businesses cannot be within 1000' of perimeter of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or game arcade that admits persons under 21 years of age. The LCB rules specify that "public park" does not include trails such as the Burke-Gilman. The City has developed a map of potential locations for marijuana businesses (Attachment 3).

The State rules do not address location of marijuana businesses in single-family residential neighborhoods, although they do state that a business may not locate in a "personal residence." As the potential locations map demonstrates, many single-family residential neighborhoods in the City are outside of the 1,000' buffer for marijuana businesses.

The LCB has received license applications for a marijuana producer and a processor business in Kenmore at 8142 NE 145th Place in the R-6 zoning district. As of April 3, 2014, the LCB had not assigned an investigator to review the application. Staff anticipates that the license will not move forward as the location appears to be in a single-family home (not permitted).

The other Kenmore LCB applications (all retailers) are for a single location--6323 NE Bothell Way--zoned Regional Business.

Even if the LCB issues a license, the applicant must still seek City approval to locate in Kenmore.

Kenmore's Comprehensive Plan contains several policy statements supporting preservation of single-family neighborhoods for housing, with single-family dwellings as the principal use. The City desires to protect its single family residential neighborhoods from any adverse impacts of marijuana businesses under Initiative 502.

FISCAL CONSIDERATION:

None at this time. In the near future, staff time will be required to review the issues surrounding marijuana businesses and operations and develop a regulatory approach.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Comprehensive Plan Vision Statement: "We see Kenmore as a community that is attentive to, and seeks to provide for, the health, safety, and welfare of all its citizens." "In 2020, we see Kenmore as a community that has preserved the character of its single family residential neighborhoods, which offers a range of housing types and prices to ensure an adequate choice of attractive living accommodations, and promotes compatible housing."

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

Land Use Element Objective 1.3: The City shall "maintain and enhance the character of existing single-family neighborhoods by allowing compatible housing, improving infrastructure, and establishing appropriate site development standards."

Land Use Element Policy LU-1.3.1: The City shall "ensure that zoning regulations emphasize single-family dwellings as the principal use in the City's established single-family neighborhoods."

CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 13-0369

**AN INTERIM ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, REGARDING MARIJUANA BUSINESSES
UNDER INITIATIVE MEASURE NO. 502; ADOPTING A
SIX-MONTH INTERIM ZONING REGULATION THAT
PROHIBITS MARIJUANA BUSINESSES IN THE R-1, R-4,
AND R-6 RESIDENTIAL ZONES; PROVIDING FOR
SEVERABILITY; DECLARING AN EMERGENCY; AND
ESTABLISHING AN EFFECTIVE DATE.**

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

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

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

WHEREAS, the LCB will accept applications for marijuana business licenses from November 18, 2013 to December 18, 2013; and

WHEREAS, the cultivation, possession or distribution of marijuana and marijuana products has been and continues to be a violation of federal law through 21 U.S.C. § 812(c), the Controlled Substances Act ("CSA"); and

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

WHEREAS, in the Department of Justice Memorandum, the Department emphasized that Congress has determined marijuana to be a dangerous drug, that the illegal distribution and sale of marijuana is a serious crime and that the Department is committed to enforcement of the federal Controlled Substances Act; and

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

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

WHEREAS, RCW 69.51A.140 authorizes the City to adopt and enforce zoning requirements and health and safety requirements pertaining to the production, processing or dispensing of marijuana and marijuana products; and

WHEREAS, the City of Kenmore Comprehensive Plan Vision Statement states that “In 2020, we see Kenmore as a community that has preserved the character of its single family residential neighborhoods, which offers a range of housing types and prices to ensure an adequate choice of attractive living accommodations, and promotes compatible housing;” and

WHEREAS, Objective 1.3 of the Comprehensive Plan Land Use Element states that the City shall “maintain and enhance the character of existing single-family neighborhoods by allowing compatible housing, improving infrastructure, and establishing appropriate site development standards;” and

WHEREAS, Policy LU-1.3.1 of the Comprehensive Plan Land Use Element states that the City shall “ensure that zoning regulations emphasize single-family dwellings as the principal use in the City’s established single-family neighborhoods;” and

WHEREAS, Initiative 502, supplemented by the LCB rules, prohibits the LCB from issuing a license for any marijuana business within one thousand feet (1,000’) of certain uses, facilities and buildings, such as elementary and secondary schools, playgrounds, child care centers, public parks, public transit centers and libraries; and

WHEREAS, many single-family residential neighborhoods of the City are outside of the 1,000-foot buffer for marijuana businesses; and

WHEREAS, the City desires to protect its single-family residential neighborhoods from any adverse impacts of marijuana businesses under Initiative 502; and

WHEREAS, given the complexity of the relevant issues relating to marijuana businesses, as described in Ordinance No. 13-0362 (passed by the City Council on June 24, 2013), the City needs time to conduct appropriate research and analysis in order to understand the environmental, land use and other impacts of marijuana businesses in the City, and to determine the appropriate regulatory framework for the location, operation, permitting and licensing of marijuana businesses in the City; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to adopt an interim zoning regulation for six-months, and hold a public hearing on the interim zoning regulation within sixty (60) days of the initial adoption of the regulation,

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

Section 1. Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of the interim zoning regulation imposed by this Ordinance. The City Council may, in its discretion, adopt additional or revised findings at the conclusion of the public hearing referenced in Section 5 below.

Section 2. Interim Zoning Regulation. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City adopts an interim zoning regulation that makes a marijuana business a prohibited use in the R-1, R-4, and R-6 residential zones of the City. A "marijuana business" is a marijuana producer, marijuana processor or marijuana retailer as defined in Initiative 502.

Section 3. Moratorium. The moratorium of Ordinance No. 13-0362, which prohibits the filing and acceptance of applications for and the licensing (including business licensing), establishment, location, operation, maintenance or continuation of marijuana businesses, or any other marijuana activities and operations asserted to be authorized or actually authorized under Initiative 502, is unaffected by the interim zoning regulation adopted in this Ordinance and shall remain in place until expiration.

Section 4. No Nonconforming Uses. No use that constitutes or purports to be a marijuana business that was engaged in prior to the passage of this Ordinance shall be deemed to have been legally established under the Kenmore Municipal Code and shall not be entitled to legal nonconforming status.

Section 5. Public Hearing. As provided in RCW 35A.63.220 and RCW 36.70A.390, the City Council shall set a public hearing on this matter no later than 60 days after adoption of this Ordinance, in order to take public testimony and consider adopting further findings justifying the imposition of the interim zoning regulation in Section 2 above.

Section 6. Duration. The interim zoning regulation of Section 2 above shall be in effect for a period of six (6) months from the effective date of this Ordinance (to and through May 12, 2014), and shall automatically expire on that date unless repealed, modified, or extended after subsequent public hearing and entry of appropriate findings of fact as provided in RCW 35A.63.220 and RCW 36.70A.390.

Section 7. Authorization of City Manager. The City Manager is authorized and directed to research and analyze the environmental, land use and other impacts of marijuana businesses in the City, and to determine the appropriate regulatory framework for the location, operation, permitting and licensing of marijuana businesses in the City.

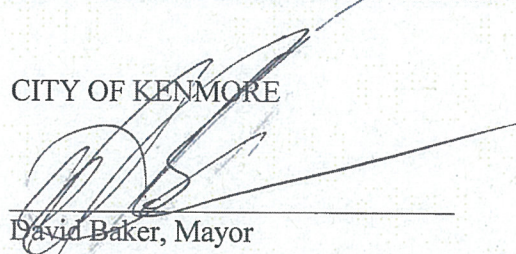
Section 8. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance, or the application of the provision to other persons or circumstances, is not affected.

Section 9. Emergency; Effective Date. This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace,

shall take effect and be in full force immediately upon its passage. Pursuant to Matson v. Clark County Board of Commissioners, 79 Wn.App. 641, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the recitals set forth above, which are adopted by reference.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 12th DAY OF November, 2013.

CITY OF KENMORE



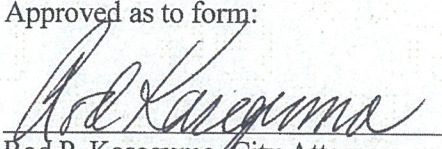
David Baker, Mayor

ATTEST/AUTHENTICATED:



Patty Safrin, City Clerk

Approved as to form:



Rod P. Kaseguma, City Attorney

Filed with the City Clerk: November 12, 2013
Passed by the City Council: November 12, 2013
Ordinance No.: 13-0369
Date of Publication: November 15, 2013
Effective Date: November 12, 2013

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 14-0381**

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, EXTENDING FOR SIX MONTHS THE
CITY'S INTERIM ZONING REGULATION THAT
PROHIBITS MARIJUANA BUSINESSES IN THE R-1, R-4,
AND R-6 RESIDENTIAL ZONES; AMENDING SECTION 6
OF ORDINANCE 13-0369; AND ESTABLISHING AN
EFFECTIVE DATE.**

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

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

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

WHEREAS, the LCB accepted applications for marijuana business licenses from November 18, 2013 to December 20, 2013; and

WHEREAS, the cultivation, possession or distribution of marijuana and marijuana products has been and continues to be a violation of federal law through 21 U.S.C. § 812(c), the Controlled Substances Act ("CSA"); and

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

WHEREAS, in the Department of Justice Memorandum, the Department emphasized that Congress has determined marijuana to be a dangerous drug, that the illegal distribution and

sale of marijuana is a serious crime and that the Department is committed to enforcement of the federal Controlled Substances Act; and

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

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

WHEREAS, RCW 69.51A.140 authorizes the City to adopt and enforce zoning requirements and health and safety requirements pertaining to the production, processing or dispensing of marijuana and marijuana products; and

WHEREAS, on January 16, 2014, the Attorney General of Washington issued AGO 2014 No. 2, which concluded that Initiative Measure No. 502 ("Initiative 502") does not preempt local governments from licensing and regulating marijuana businesses, and that local governments may establish regulations that make it impractical for marijuana businesses to locate within their boundaries, as long as the regulations are a reasonable exercise of the police power (that is, they promote public safety, health, or welfare and bear a reasonable and substantial relation to accomplishing the purpose pursued); and

WHEREAS, the City of Kenmore Comprehensive Plan Vision Statement states that "In 2020, we see Kenmore as a community that has preserved the character of its single family residential neighborhoods, which offers a range of housing types and prices to ensure an adequate choice of attractive living accommodations, and promotes compatible housing"; and

WHEREAS, Objective 1.3 of the Comprehensive Plan Land Use Element states that the City shall "maintain and enhance the character of existing single-family neighborhoods by allowing compatible housing, improving infrastructure, and establishing appropriate site development standards"; and

WHEREAS, Policy LU-1.3.1 of the Comprehensive Plan Land Use Element states that the City shall "ensure that zoning regulations emphasize single-family dwellings as the principal use in the City's established single-family neighborhoods"; and

WHEREAS, Initiative 502, supplemented by the LCB rules, prohibits the LCB from issuing a license for any marijuana business within one thousand feet (1,000') of certain uses, facilities and buildings, such as elementary and secondary schools, playgrounds, child care centers, public parks, public transit centers and libraries; and

WHEREAS, many single-family residential neighborhoods of the City are outside of the 1,000-foot buffer for marijuana businesses; and

WHEREAS, the City desires to protect its single-family residential neighborhoods from any adverse impacts of marijuana businesses under Initiative 502; and

WHEREAS, on November 12, 2013, the City Council passed Ordinance No. 13-0369, which adopted an interim zoning regulation that makes a marijuana business a prohibited use in the R-1, R-4 and R-6 residential zones of the City; and

WHEREAS, on December 2, 2013, the City Council held a public hearing on the interim zoning regulation established in Ordinance No. 13-0369, at which time City staff and members of the public had an opportunity to present testimony and other evidence in support of or against the interim zoning regulation, and after considering all the evidence presented at the hearing, the City Council made no changes to the interim zoning regulation; and

WHEREAS, on April 28, 2014, the City Council held a public hearing on an extension for six months of the interim zoning regulation established in Ordinance No. 13-0369, at which time City staff and members of the public had the opportunity to present testimony and other evidence in support of or against the extension of the interim zoning regulation; and

WHEREAS, Section 7 of Ordinance No. 13-0369 authorizes and directs the City Manager to research and analyze the environmental, land use and other impacts of marijuana businesses in the City, and to determine the appropriate regulatory framework for the location, operation, permitting and licensing of marijuana businesses in the City; and

WHEREAS, at the direction of the City Manager, City staff has developed a framework and outline of general approaches that the City could take to regulate the location, operation, permitting and licensing of marijuana businesses in the City; and

WHEREAS, the City needs additional time to consider such framework and outline, to conduct appropriate research and analysis, and to understand the extent and impact of Initiative 502 and the LCB application processing scheme, in order to determine the appropriate regulatory framework for the location, operation, permitting and licensing of marijuana businesses in the City; and

WHEREAS, the City Council deems it to be in the best interests of the public, and necessary for the protection of the public health, safety, property or peace, to extend for an additional six months the interim zoning regulation; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to renew an interim regulation on development or land use for a six-month period if a subsequent public hearing is held and findings of fact are made prior to the renewal; now, therefore

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

Section 1. Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of the extension for six months of the interim regulation imposed by Ordinance No. 13-0369.

Section 2. Extension of Moratorium. Section 6 of Ordinance No. 13-0369 is amended to read as follows:

The interim zoning regulation of Section 2 above shall be in effect ~~for a period of six (6) months from the effective date of this Ordinance (to and through May 12, 2014),~~ until November 7, 2014, and shall automatically expire on that date unless repealed, modified, or extended after subsequent public hearing and entry of appropriate findings of fact as provided in RCW 35A.63.220 and RCW 36.70A.390.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance, or the application of the provision to other persons or circumstances, is not affected.

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in force five (5) days after the date of publication.

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

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

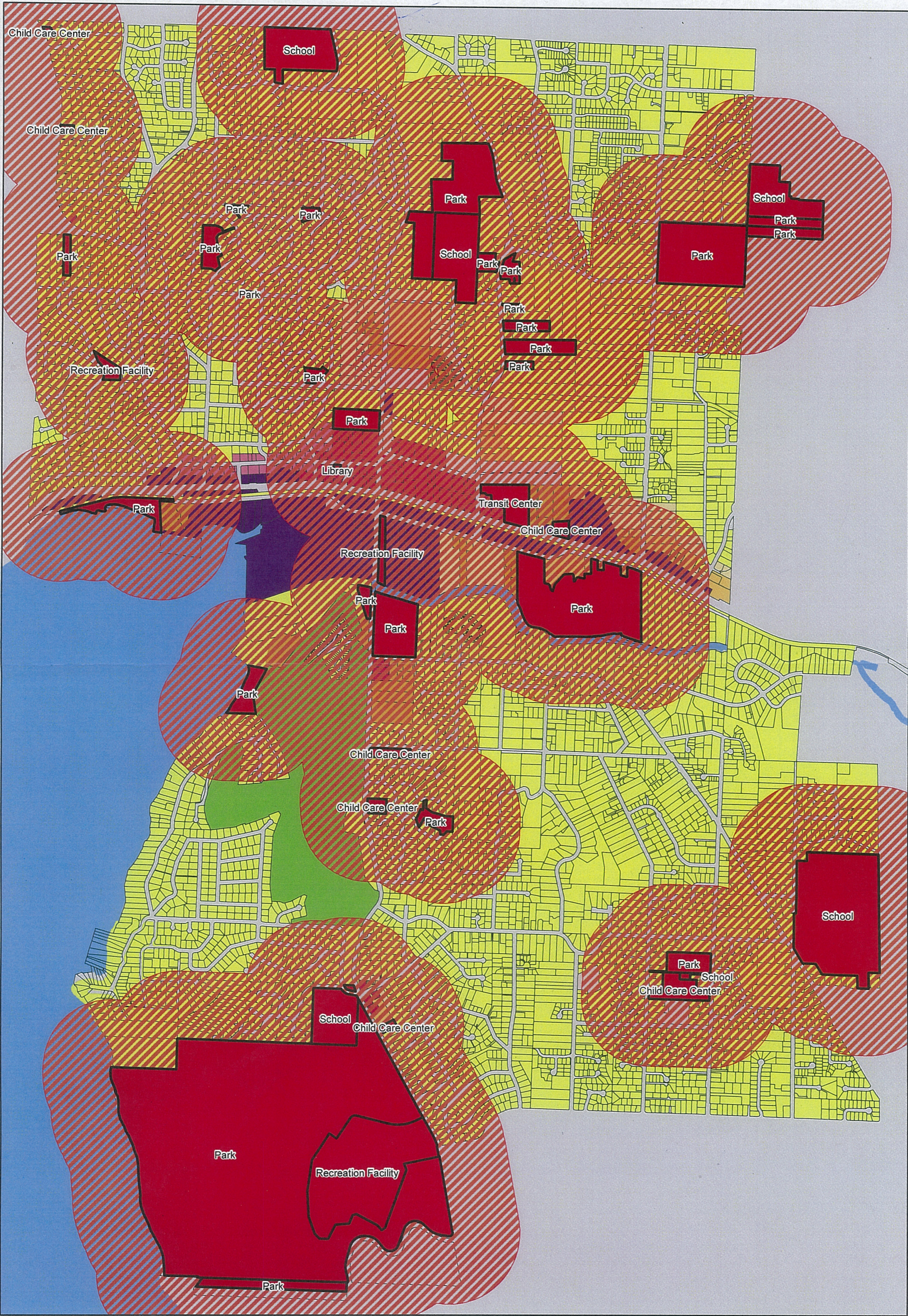
Patty Safrin, City Clerk

Approved as to form:

Rod P. Kaseguma, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.:
Date of Publication:
Effective Date:

Potential Locations - Marijuana Businesses



- | | | | |
|---------------------------|------------------------------------|---------------------|-----------------------|
| Properties | Residential, 12 Dwellings Per Acre | Community Business | Neighborhood Business |
| 1,000 Foot Buffer | Residential, 18 Dwellings Per Acre | Downtown Commercial | Public/Semi-Public |
| Zoning | Residential, 24 Dwellings Per Acre | Golf Course | Regional Business |
| Single Family Residential | | | |



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

Map Date: 10/31/2013



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Discussion and Direction on the Regulation of Marijuana Businesses and Medical Marijuana Collective Gardens in Kenmore Proposed Council Action/Motion: Direct staff on the desired approach to regulating marijuana businesses and medical marijuana collective gardens.	For Council Meeting Agenda of: 4/28/14 Department: <u>Community Development</u> Prepared by: <u>Debbie Bent, Community Development Director and Lauri Anderson, Senior Planner</u> <table><tr><td>Approved by Department Head:</td><td><u>DA 4/11/14</u></td></tr><tr><td>Approved by City Attorney:</td><td></td></tr><tr><td>Approved by Finance Director:</td><td><u>Greg 4/15/14</u></td></tr><tr><td>Approved by City Manager:</td><td><u>RJZ</u></td></tr></table> Exhibits/Attachments: 1. Staff Memorandum with 5 attachments	Approved by Department Head:	<u>DA 4/11/14</u>	Approved by City Attorney:		Approved by Finance Director:	<u>Greg 4/15/14</u>	Approved by City Manager:	<u>RJZ</u>
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Approved by Finance Director:	<u>Greg 4/15/14</u>								
Approved by City Manager:	<u>RJZ</u>								
Expenditure Required \$0	Amount Budgeted \$0	Appropriation Required \$0							
<u>INFORMATION/BACKGROUND:</u> The City presently has two moratoriums and an interim zoning regulation in place that prohibit marijuana businesses under I-502 and medical marijuana collective gardens from locating in Kenmore. Staff is ready to prepare permanent regulations and requests Council direction on the preferred approach. Options (discussed in more depth in the attached staff memorandum) include: <u>Marijuana businesses under I-502</u> 1. Ban all marijuana businesses (producers, processors, and retailers) from locating anywhere in the City. 2. Develop regulations to allow some or all marijuana businesses to locate somewhere in Kenmore, with associated development standards. <u>Medical marijuana collective gardens</u> 1. Ban all collective gardens from locating anywhere in the City. 2. Remain silent on the topic of collective gardens (as the Court of Appeals has determined that medical marijuana collective gardens are illegal).									

FISCAL CONSIDERATION:

None at this time. In the near future, staff time will be required to develop regulations for Council review.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Comprehensive Plan Vision Statement: “We see Kenmore as a community that is attentive to, and seeks to provide for, the health, safety, and welfare of all its citizens.” “In 2020, we see Kenmore as a community that has preserved the character of its single family residential neighborhoods, which offers a range of housing types and prices to ensure an adequate choice of attractive living accommodations, and promotes compatible housing.”

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

Land Use Element Objective 1.3: The City shall “maintain and enhance the character of existing single-family neighborhoods by allowing compatible housing, improving infrastructure, and establishing appropriate site development standards.”

Land Use Element Policy LU-1.3.1: The City shall “ensure that zoning regulations emphasize single-family dwellings as the principal use in the City’s established single-family neighborhoods.”



MEMO

TO: City Council

FROM: Debbie Bent, Director of Planning & Community Development
Lauri Anderson, Senior Planner *LWA*

DATE: April 11, 2014

SUBJECT: Marijuana Businesses and Medical Marijuana Collective Gardens

Over the past year and a half, staff has been carefully following the Liquor Control Board rules and licensing process for marijuana businesses, action (or inaction) by the state legislature, approaches to marijuana taken in surrounding jurisdictions, and court cases related to marijuana businesses and medical marijuana collective gardens. We are now ready to begin developing the regulatory framework within which marijuana businesses under I-502 and medical marijuana collective gardens will be addressed in Kenmore. In light of a very recent state Court of Appeals decision (issued on March 31, 2014) that makes medical marijuana collective gardens illegal, the possible regulatory approaches for marijuana businesses and collective gardens differ and are discussed separately, below.

I. Marijuana businesses under I-502

There are two general approaches that the City of Kenmore could take to address marijuana businesses in the city:

1. Ban all marijuana businesses from locating anywhere in the City.

Pros:

- Would prevent possible adverse impacts of these businesses, including odor, hazardous waste, risk of fire, and increased crime.
- Avoids conflict with the federal Controlled Substances Act, which considers marijuana a Schedule 1 drug—illegal in all respects except for research studies.

Cons:

- Would not respond to I-502 authorization by voters (60% support in Kenmore).
- Would eliminate opportunities in Kenmore for those interested in purchasing marijuana (including medical marijuana patients), forcing purchasers and/or patients to obtain marijuana in surrounding jurisdictions.

2. Develop regulations to allow some or all marijuana businesses in Kenmore.

Pros:

- Would allow controlled location of marijuana businesses in the city.
- Would allow medical marijuana patients an opportunity to purchase retail marijuana in Kenmore.
- Would respond to I-502 authorization by voters.

Cons:

- Possible adverse impacts of those businesses allowed to locate in the city would remain.
- Would authorize an activity that is illegal under the federal Controlled Substances Act.
- May expose officials that assist or facilitate in permitting or licensing to be in violation of federal laws prohibiting the use, possession or sale of marijuana to possible federal prosecutions.

If the City Council decides to move ahead with regulations to allow marijuana businesses, staff recommends that Council identify “guiding principles” for the project. Some staff-recommended principles include:

- Do not allow these uses in the City’s residential zones, including both single-family and multi-family zones. The City has adopted “interim” regulations that prohibit marijuana businesses in R1, R4 and R6 zones. Marijuana businesses operate as commercial uses and should not be permitted in residential zones where they could adversely affect neighboring properties and residents.
- Require a business license for all marijuana businesses. Police Chief Sether recommends that a business license be obtained. This license would provide additional oversight, and license fees could be used to cover costs of review of these businesses.
- Require a separation distance between marijuana businesses. A separation requirement would prevent a concentration of marijuana businesses in a certain area of the city.
- Emphasize public health and safety.

Background on Initiative 502 Businesses

Initiative 502 which legalizes, taxes and regulates use of marijuana in Washington by persons 21 and older was approved on the November 2012 Washington State ballot. The law took effect on December 6, 2012. According to King County elections records, 60% of Kenmore voters approved the Initiative, compared with 56% statewide and 63% in King County overall.

Under I-502, the Liquor Control Board (LCB) had to establish procedures and criteria for licensing marijuana businesses by December 1, 2013. LCB issued their rules (Attachment 1) and the Washington State Business Licensing Service began accepting applications for marijuana businesses on November 18, 2013. The application window was open until December 20, 2013.

Three new marijuana licenses are authorized: producer, processor, and retailer. The fee for each license is a \$250 application fee and \$1000 annual renewal fee. The marijuana producer license allows production of marijuana for sale at wholesale to marijuana processors and allows for production, possession, delivery, and distribution. The marijuana processor license allows for processing, packaging, and labeling of marijuana/marijuana infused product for sale at wholesale to marijuana retailers and allows for processing, packaging, possession, delivery, and distribution. The marijuana retailer license allows for sale of useable marijuana/marijuana infused products at retail outlets regulated by the LCB. No portion of the license fee goes to local government; no revenue sharing between the state and local governments is authorized by the Initiative.

Premises of marijuana businesses cannot be within 1000' of perimeter of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or game arcade that admits persons under 21 years of age. The LCB rules specify that "public park" does not include trails such as the Burke-Gilman. Staff has prepared a map of potential locations for marijuana businesses (see Attachment 2). This map will change over time as businesses (child care facilities, for example) move into the City or relocate.

There are no limits on the number of producer and/or processor licenses that the LCB will issue (although the size of these businesses has been reduced given the large number of license applications). The LCB has determined the maximum number of retail outlets in each county, in order to provide adequate access to licensed products and to discourage purchases from the illegal market (Attachment 3). Kenmore was not identified as a license location, although an applicant could apply to the LCB for a license in the city as one of the 11 "at-large" locations in King County.

Applications for one producer and one processor license have been received by the LCB for a single location in Kenmore. The business is proposed to be located in the R6 zone, but staff believes that the location is in violation of the Liquor Control Board rules (the location appears to be a private residence). As of April 3, 2014, the LCB had not assigned an investigator to review these two applications. Staff anticipates that the licenses will not move forward once the investigation concludes.

Ten applications for retail licenses in Kenmore have been received--all are for the same address on the south side of SR-522 in the Regional Business zoning district. This location appears to be outside of the 1000' buffer from sensitive uses. It is possible that all 10 of these license applications will be allowed to enter the lottery for the 11 King County "at large" locations, based on a new interpretation from the LCB staff in conversation on April 3, 2014. (Previously, the LCB had said that only one application per location would be eligible for the lottery.) Approximately 50 King County "at large" applications have been received for the 11 available licenses. Kenmore's ten applications make up approximately 19% of this total.

The lottery is scheduled to take place between April 21-25, 2014. Applicants will be placed in rank order after the lottery. Being identified as the apparent successful applicant is not a guarantee that the selected applicant will receive a license. There are multiple requirements for licensure such as the applicant must pass a criminal history

and financial investigation. The first state retail licenses are anticipated to be issued in June of this year.

Prior to the issuance of any license for a new marijuana business, the LCB will send a notice to the city, providing an opportunity for the city to submit comments on the license application and proposed location.

Although Initiative 502 supports the production and use of recreational marijuana, the federal government continues to treat marijuana as a “Schedule 1” drug—illegal in all respects except for research studies. The U.S. Department of Justice has advised that as long as states adopting laws governing marijuana have “sufficiently robust” regulatory and enforcement systems” (on paper and in practice) to address the federal government’s eight identified enforcement priorities (such as preventing the distribution of marijuana to minors, preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels, and preventing the diversion of marijuana from states where it is legal under state law in some form to other states, regardless of state law), then “enforcement of state laws by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity”. If the state enforcement efforts are not sufficiently robust, the federal government may seek to challenge the regulatory system itself.

On January 16, 2014, Washington State’s Attorney General issued AGO 2014 No. 2 (see Attachment 4), which concluded that Initiative 502 does not preempt local governments from licensing and regulating marijuana businesses, and that local governments may establish regulations that make it impractical for marijuana businesses to locate within their boundaries, as long as the regulations are a reasonable exercise of the police power (that is, they promote public safety, health, or welfare and bear a reasonable and substantial relation to accomplishing the purpose pursued).

II. Medical marijuana collective gardens

As previously mentioned, the state Court of Appeals issued a decision in Cannabis Action Coalition (CAC) et al v. City of Kent on March 31, 2014. The decision, in effect, makes medical marijuana collective gardens illegal in Washington.

Given this, two options remain for treatment of medical marijuana collective gardens in the city:

1. Ban all collective gardens from locating anywhere in the city.

Pros:

- Would make it clear that these businesses may not locate in Kenmore.

Cons:

- Could imply that these illegal businesses have some legitimacy.

2. Remain silent on the issue of medical marijuana collective gardens.

Pros:

- The city typically does not create regulations for illegal businesses.

Cons:

- The Kent case is so new and collective gardens so prevalent in surrounding jurisdictions (primarily Seattle) that it may be useful to make a direct statement about this use.

Background on Medical Marijuana Collective Gardens

Under State law, individual patients suffering from some terminal or debilitating conditions may produce and possess limited quantities of medical marijuana for treatment of their illness. Individual patients can grow (or choose a provider to grow) up to 15 plants maximum, with a maximum of 24 ounces of useable cannabis on site.

Amendments to State law in 2011 (ESSB 5073) authorized "collective gardens," to be used by up to 10 qualifying patients for the purpose of producing, processing, transporting, and delivering cannabis for medical use. Collective gardens can grow up to 15 plants per person, but no more than 45 plants total. No useable cannabis from the collective garden may be delivered to anyone other than one of the qualifying patients. The legislation provided that cities may adopt and enforce zoning requirements, business licensing requirements, and health and safety requirements for medical cannabis collective gardens.

The medical marijuana statutes did not legalize marijuana but instead created a limited defense to marijuana charges under state law. This limited defense is not applicable to federal law.

In 2012, the City of Kent instituted a ban on medical marijuana collective gardens. The ban was upheld by King County Superior Court, but that decision was appealed. On March 31, 2014, Division One of the State Court of Appeals (*Cannabis Action Coalition, et al v. City of Kent (No. 70396-0-1)*) ruled that medical marijuana collective gardens are illegal and that cities are authorized to enact zoning requirements to regulate, or even exclude, collective gardens. Further appeals may be forthcoming.

Acknowledging the lack of interaction and coordination between Initiative 502 and the medical marijuana statutes, the Legislature directed the Washington State Liquor Control Board (WSLCB) to work with the Departments of Revenue and Health to develop recommendations for the Legislature by January 1, 2014 regarding the interaction of medical marijuana regulations and Initiative 502. The Liquor Control Board developed draft recommendations and transmitted them to the Legislature.

Several bills were reviewed in the Legislature, including one that would eliminate collective gardens entirely, send medical marijuana patients to the recreational marijuana businesses for their marijuana, and further restrict the amount of marijuana individual patients can grow and keep on site. Ultimately, no bills addressing collective gardens were passed by the Legislature.

Of concern for medical marijuana collective gardens is the lack of State oversight. As mentioned under the I-502 businesses background, the Department of Justice is concerned that a "sufficiently robust" regulatory and enforcement system (on paper and in practice) be in place to address the federal government's eight identified enforcement priorities for marijuana. The Department of Justice has expressed specific concerns that the present medical marijuana collective garden system (mostly unregulated marijuana dispensaries) does not meet this test.

In the memo of August 29, 2013 (see Attachment 5), the Department of Justice stated that the Department's guidance "rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests." If state and local government enforcement efforts are not sufficiently robust to protect against the harms mentioned in the eight enforcement priorities, the federal government may seek to challenge the regulatory system itself.

Jenny Durkan, the U.S. Attorney for western Washington said at the time the Department of Justice memo was issued that the current medical rules are "not tenable" and that all medical marijuana dispensaries in the state are illegal and subject to federal action.

Attachments

- Attachment 1: Liquor Control Board Rules
- Attachment 2: Potential Locations Map
- Attachment 3: Retail License Distribution
- Attachment 4: Attorney General Opinion
- Attachment 5: Department of Justice Memorandum

Chapter 314-55 WAC
MARIJUANA LICENSES, APPLICATION PROCESS, REQUIREMENTS, AND REPORTING

NEW SECTION

WAC 314-55-005 What is the purpose of this chapter? The purpose of this chapter is to outline the application process, qualifications and requirements to obtain and maintain a marijuana license and the reporting requirements for a marijuana licensee.

NEW SECTION

WAC 314-55-010 Definitions. Following are definitions for the purpose of this chapter. Other definitions are in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(5) "Elementary school" means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

(6) "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

(7) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

(8) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

(9) "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(10) "Lot" means either of the following:

(a) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

(11) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(12) "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

(13) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, and insecticides.

(14) "Perimeter" means a property line that encloses an area.

(15) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

(16) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

(17) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

(18) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

(19) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

(20) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

(21) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

(22) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

NEW SECTION

WAC 314-55-015 General information about marijuana licenses. (1) A person or entity must meet certain qualifications to receive a marijuana license, which are continuing qualifications in order to maintain the license.

(2) All applicants and employees working in each licensed establishment must be at least twenty-one years of age.

(3) Minors restricted signs must be posted at all marijuana licensed premises.

(4) A marijuana license applicant may not exercise any of the privileges of a marijuana license until the board approves the license application.

(5) The board will not approve any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.

(6) The board will not approve any marijuana license for a location on federal lands.

(7) The board will not approve any marijuana retailer license for a location within another business. More than one license could be located in the same building if each licensee has their own area separated by full walls with their own entrance. Product may not be commingled.

(8) Every marijuana licensee must post and keep posted its license, or licenses, and any additional correspondence containing conditions and restrictions imposed by the board in a conspicuous place on the premises.

(9) In approving a marijuana license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a marijuana license.

(10) A marijuana processor or retailer licensed by the board shall conduct the processing, storage, and sale of marijuana-infused products using sanitary practices and ensure facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.

(11) Marijuana licensees may not allow the consumption of marijuana or marijuana-infused products on the licensed premises.

NEW SECTION

WAC 314-55-020 Marijuana license qualifications and application process. Each marijuana license application is unique and investigated individually. The board may inquire and request documents regarding all matters in connection with the marijuana license application. The

application requirements for a marijuana license include, but are not necessarily limited to, the following:

(1) Per RCW 69.50.331, the board shall send a notice to cities and counties, and may send a notice to tribal governments or port authorities regarding the marijuana license application. The local authority has twenty days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(2) The board will verify that the proposed business meets the minimum requirements for the type of marijuana license requested.

(3) The board will conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-55-040 and 314-55-045.

(a) The criminal history background check will consist of completion of a personal/criminal history form provided by the board and submission of fingerprints to a vendor approved by the board. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Financiers will also be subject to criminal history investigations equivalent to that of the license applicant. Financiers will also be responsible for paying all fees required for the criminal history check. Financiers must meet the three month residency requirement.

(4) The board will conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

(5) The board may require a demonstration by the applicant that they are familiar with marijuana laws and rules.

(6) The board may conduct a final inspection of the proposed licensed business, in order to determine if the applicant has complied with all the requirements of the license requested.

(7) Per RCW 69.50.331 (1)(b), all applicants applying for a marijuana license must have resided in the state of Washington for at least three months prior to application for a marijuana license. All partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies applying for a marijuana license must be formed in Washington. All members must also meet the three month residency requirement. Managers or agents who manage a licensee's place of business must also meet the three month residency requirement.

(8) Submission of an operating plan that demonstrates the applicant is qualified to hold the marijuana license applied for to the satisfaction of the board. The operating plan shall include the following elements in accordance with the applicable standards in the Washington Administrative Code (WAC).

(9) As part of the application process, each applicant must submit in a format supplied by the board an operating plan detailing the following as it pertains to the license type being sought. This operating plan must also include a floor plan or site plan drawn to scale which illustrates the entire operation being proposed. The operating plan must include the following information:

Producer	Processor	Retailer
Security	Security	Security
Traceability	Traceability	Traceability
Employee qualifications and training	Employee qualifications and training	Employee qualifications and training
Transportation of product including packaging of product for transportation	Transportation of product	
Destruction of waste product	Destruction of waste product	Destruction of waste product
Description of growing operation including growing media, size of grow space allocated for plant production, space allocated for any other business activity, description of all equipment used in the production process, and a list of soil amendments, fertilizers, other crop production aids, or pesticides, utilized in the production process	Description of the types of products to be processed at this location together with a complete description of all equipment and solvents, gases, chemicals and other compounds used to create extracts and for processing of marijuana-infused products	
Testing procedures and protocols	Testing procedures and protocols	
	Description of the types of products to be processed at this location together with a complete description of processing of marijuana-infused products	
	Description of packaging and labeling of products to be processed	
		What array of products are to be sold and how are the products to be displayed to consumers

After obtaining a license, the license holder must notify the board in advance of any substantial change in their operating plan. Depending on the degree of change, prior approval may be required before the change is implemented.

(10) Applicants applying for a marijuana license must be current in any tax obligations to the Washington state department of revenue, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, that representation is correct.

(11) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.

(12) Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application may be administratively closed or denial of the application will be sought.

NEW SECTION

WAC 314-55-035 What persons or entities have to qualify for a marijuana license? A marijuana license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	• All general partners and their spouses. • All limited partners and spouses.
Limited liability company	• All members and their spouses. • All managers and their spouses.
Privately held corporation	• All corporate officers (or persons with equivalent title) and their spouses. • All stockholders and their spouses.
Publicly held corporation	All corporate officers (or persons with equivalent title) and their spouses. All stockholders and their spouses.
Multilevel ownership structures	All persons and entities that make up the ownership structure (and their spouses).
Any entity or person (inclusive of financiers) that are expecting a percentage of the profits in exchange for a monetary loan or expertise.	Any entity or person who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year. Any entity or person who exercises control over the licensed business in exchange for money or expertise. For the purposes of this chapter: • "Gross profit" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business. • "Net profit" means gross sales minus cost of goods sold.
Nonprofit corporations	All individuals and spouses, and entities having membership rights in accordance with the provisions of the articles of incorporation or the bylaws.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the

lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(3) **Financiers** - The board will conduct a financial investigation as well as a criminal background of financiers.

(4) **Persons who exercise control of business** - The board will conduct an investigation of any person or entity who exercises any control over the applicant's business operations. This may include both a financial investigation and/or a criminal history background.

NEW SECTION

WAC 314-55-040 What criminal history might prevent a marijuana license applicant from receiving or keeping a marijuana license? (1) When the board processes a criminal history check on an applicant, it uses a point system to determine if the person qualifies for a license. The board will not normally issue a marijuana license or renew a license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned	Points assigned
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the board will administratively close the application.

(3) The board may not issue a marijuana license to anyone who has accumulated eight or more points as referenced above. This is a discretionary threshold and it is further recommended that the following exceptions to this standard be applied:

Exception to criminal history point assignment. This exception to the criminal history point assignment will expire on July 1, 2014:

(a) Prior to initial license application, two federal or state misdemeanor convictions for the possession only of marijuana within the previous three years may not be applicable to the criminal history points accumulated. All criminal history must be reported on the personal/criminal history form.

(i) Regardless of applicability, failure to disclose full criminal history will result in point accumulation;

(ii) State misdemeanor possession convictions accrued after December 6, 2013, exceeding the allowable amounts of marijuana, usable marijuana, and marijuana-infused products described in chapter 69.50 RCW shall count toward criminal history point accumulation.

(b) Prior to initial license application, any single state or federal conviction for the growing, possession, or sale of marijuana will be considered for mitigation on an individual basis. Mitigation will be considered based on the quantity of product involved and other circumstances surrounding the conviction.

(4) Once licensed, marijuana licensees must report any criminal convictions to the board within fourteen days.

NEW SECTION

WAC 314-55-045 What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license? The board will conduct an investigation of all applicants' marijuana law or rule administrative violation history. The board will not normally issue a marijuana license to a person, or to an entity with a true party of interest, who has the following violation history; or to any person who has demonstrated a pattern of disregard for laws or rules.

Violation Type (see WAC 314-55-515)	Period of Consideration
Three or more public safety violations;	Violations issued within three years of the date the application is received by the board's licensing and regulation division.
Four or more regulatory violations; or	
One to four, or more license violations.	Violations issued within the last three years the true party(ies) of interest were licensed.

NEW SECTION

WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license. Following

is a list of reasons the board may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the board has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

(1) Failure to meet qualifications or requirements for the specific marijuana producer, processor, or retail license, as outlined in this chapter and chapter 69.50 RCW.

(2) Failure or refusal to submit information or documentation requested by the board during the evaluation process.

(3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the board during the application process or any subsequent investigation after a license has been issued.

(4) Failure to meet the criminal history standards outlined in WAC 314-55-040.

(5) Failure to meet the marijuana law or rule violation history standards outlined in WAC 314-55-045.

(6) The source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the board to be gained in a manner which is in violation by law.

(7) Denies the board or its authorized representative access to any place where a licensed activity takes place or fails to produce any book, record or document required by law or board rule.

(8) Has been denied or had a marijuana license or medical marijuana license suspended or canceled in another state or local jurisdiction.

(9) Where the city, county, tribal government, or port authority has submitted a substantiated objection per the requirements in RCW 69.50.331 (7) and (9).

(10) The board shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured along the most direct route over or across established public walks, streets, or other public passageway between the proposed building/business location to the perimeter of the grounds of the entities listed below:

- (a) Elementary or secondary school;
- (b) Playground;
- (c) Recreation center or facility;
- (d) Child care center;
- (e) Public park;
- (f) Public transit center;
- (g) Library; or
- (h) Any game arcade (where admission is not restricted to persons age twenty-one or older).

(11) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

(12) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

(13) Has been denied a liquor license or had a liquor license suspended or revoked in this or any other state.

(14) The operating plan does not demonstrate, to the satisfaction of the board, the applicant is qualified for a license.

(15) Failure to operate in accordance with the board approved operating plan.

(16) The board determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.

NEW SECTION

WAC 314-55-070 Process if the board denies a marijuana license application. If the board denies a marijuana license application, the applicants may:

(1) Request an administrative hearing per chapter 34.05 RCW, the Administrative Procedure Act.

(2) Reapply for the license no sooner than one year from the date on the final order of denial.

NEW SECTION

WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license? (1) A marijuana producer license allows the licensee to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

(2) The application fee for a marijuana producer license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a marijuana producer license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(4) The board will initially limit the opportunity to apply for a marijuana producer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana producer application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana producer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

(5) Any entity and/or principals within any entity are limited to no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production is limited to two million square feet. Applicants must designate on their operating plan the size category of the production premises and the

amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- (a) Tier 1 - Less than two thousand square feet;
- (b) Tier 2 - Two thousand square feet to ten thousand square feet; and
- (c) Tier 3 - Ten thousand square feet to thirty thousand square feet.

(7) The board may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum of two million square feet the board will reduce the allowed square footage by the same percentage.

(b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the board may reduce the tier of licensure.

(8) If the total amount of square feet of marijuana production exceeds two million square feet, the board reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of marijuana on a producer's premises at any time is as follows:

(a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or

(b) Indoor grows - Six months of their annual harvest.

NEW SECTION

WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license?

(1) A marijuana processor license allows the licensee to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers.

(2) A marijuana processor is allowed to blend tested useable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(4) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(5) The board will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana processor application window after the initial evaluation of the applications that are re-

ceived and processed, and at subsequent times when the board deems necessary.

(6) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

(7) Marijuana processor licensees are allowed to have a maximum of six months of their average useable marijuana and six months average of their total production on their licensed premises at any time.

NEW SECTION

WAC 314-55-079 What is a marijuana retailer license and what are the requirements and fees related to a marijuana retailer license? (1) A marijuana retailer license allows the licensee to sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail in retail outlets to persons twenty-one years of age and older.

(2) Marijuana extracts, such as hash, hash oil, shatter, and wax can be infused in products sold in a marijuana retail store, but RCW 69.50.354 does not allow the sale of extracts that are not infused in products. A marijuana extract does not meet the definition of a marijuana-infused product per RCW 69.50.101.

(3) Internet sales and delivery of product is prohibited.

(4) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(5) The annual fee for issuance and renewal of a marijuana retailer's license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(6) Marijuana retailers may not sell marijuana products below their acquisition cost.

(7) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

NEW SECTION

WAC 314-55-081 Who can apply for a marijuana retailer license? (1) Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the liquor control board will determine the maximum number of marijuana retail locations per county.

The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated. Once the number of locations per city and at large have been identified, the eligible applicants will be selected by lottery in the event the number of applications exceeds

the allotted amount for the cities and county. Any lottery conducted by the board will be witnessed by an independent third party.

(2) The number of marijuana retail licenses determined by the board can be found on the liquor control board web site at www.liq.wa.gov.

(3) Any entity and/or principals within any entity are limited to no more than three retail marijuana licenses with no multiple location licensee allowed more than thirty-three percent of the allowed licenses in any county or city.

(4) The board will initially limit the opportunity to apply for a marijuana retailer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana retailer license application to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana retailer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

NEW SECTION

WAC 314-55-082 Insurance requirements. Marijuana licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the marijuana licensees. Marijuana licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the board that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(1) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than one million dollars.

(2) Insurance carrier rating: The insurance required in subsection (1) of this section shall be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(3) Additional insured. The board shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

NEW SECTION

WAC 314-55-083 What are the security requirements for a marijuana licensee? The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be utilized.

(3) **Surveillance system.** At a minimum, a complete video surveillance with minimum camera resolution of 640x470 pixel and must be internet protocol (IP) compatible and recording system for controlled areas within the licensed premises and entire perimeter fencing and gates enclosing an outdoor grow operation, to ensure control of the area. The requirements include image acquisition, video recording, management and monitoring hardware and support systems. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.

(a) All controlled access areas, security rooms/areas and all points of ingress/egress to limited access areas, all points of ingress/egress to the exterior of the licensed premises, and all point-of-sale (POS) areas must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of all entry and exit points.

(b) Camera placement shall allow for the clear and certain identification of any individual on the licensed premises.

(c) All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, and capable of clearly identifying any activities occurring within the facility or within the grow rooms in low light conditions. The surveillance system storage device must be secured on-site in a lock box, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

(d) All perimeter fencing and gates enclosing an outdoor grow operation must have full video surveillance capable of clearly identifying any activities occurring within twenty feet of the exterior of the perimeter. Any gate or other entry point that is part of the enclosure for an outdoor growing operation must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of the exterior, twenty-four hours a day. A motion detection lighting system may be employed to illuminate the gate area in low light conditions.

(e) Areas where marijuana is grown, cured or manufactured including destroying waste, shall have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, allowing for the clear and certain identification of persons and activities at all times.

(f) All marijuana or marijuana-infused products that are intended to be removed or transported from marijuana producer to marijuana pro-

cessor and/or marijuana processor to marijuana retailer shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the liquor control board or designees.

(g) All camera recordings must be continuously recorded twenty-four hours a day. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any liquor control board employee or law enforcement officer, and must be copied and provided to the board or law enforcement officer upon request.

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the board. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extracts and marijuana-infused products must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the board:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana-infused product is to be destroyed;

(d) When usable marijuana or marijuana-infused products are transported;

(e) Any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, or other item containing marijuana;

(f) There is a seventy-two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed or a lot or batch of marijuana or marijuana-infused product may be destroyed;

(g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before a lot of marijuana is transported from a producer to a processor;

(h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before useable marijuana, or marijuana-infused products are transported from a processor to a retailer.

(i) Prior to reaching eight inches in height or width, each marijuana plant must be tagged and tracked individually, which typically should happen when a plant is moved from the seed germination or clone area to the vegetation production area;

(j) A complete inventory of all marijuana seedlings, clones, all plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extract and marijuana-infused products;

(k) All point of sale records;

- (l) Marijuana excise tax records;
- (m) All samples sent to an independent testing lab and the quality assurance test results;
- (n) All free samples provided to another licensee for purposes of negotiating a sale;
- (o) All samples used for testing for quality by the producer or processor;
- (p) Samples containing usable marijuana provided to retailers;
- (q) Samples provided to the board or their designee for quality assurance compliance checks; and
- (r) Other information specified by the board.

(5) **Start-up inventory for marijuana producers.** Within fifteen days of starting production operations a producer must have all non-flowering marijuana plants physically on the licensed premises. The producer must immediately record each marijuana plant that enters the facility in the traceability system during this fifteen day time frame. No flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

(6) **Samples.** Free samples of usable marijuana may be provided by producers or processors, or used for product quality testing, as set forth in this section.

(a) Samples are limited to two grams and a producer may not provide any one licensed processor more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The producer must record the amount of each sample and the processor receiving the sample in the traceability system.

(b) Samples are limited to two grams and a processor may not provide any one licensed retailer more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(c) Samples are limited to two units and a processor may not provide any one licensed retailer more than six ounces of marijuana infused in solid form per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(d) Samples are limited to two units and a processor may not provide any one licensed retailer more than twenty-four ounces of marijuana-infused liquid per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(e) Samples are limited to one-half gram and a processor may not provide any one licensed retailer more than one gram of marijuana-infused extract meant for inhalation per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(f) Producers may sample one gram of useable marijuana per strain, per month for quality sampling. Sampling for quality may not take place at a licensed premises. Only the producer or employees of the licensee may sample the useable marijuana for quality. The producer must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(g) Processors may sample one unit, per batch of a new edible marijuana-infused product to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employees of the licensee may sample the edible marijuana-infused product. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(h) Processors may sample up to one quarter gram, per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employee(s) of the licensee may sample the marijuana-infused extract for inhalation. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(i) The limits described in subsection (3) of this section do not apply to the usable marijuana in sample jars that may be provided to retailers described in WAC 314-55-105(8).

(j) Retailers may not provide free samples to customers.

NEW SECTION

WAC 314-55-084 Production of marijuana. Only the following specified soil amendments, fertilizers, other crop production aids, and pesticides may be used in the production of marijuana:

(1) Materials listed or registered by the Washington state department of agriculture (WSDA) or Organic Materials Review Institute (OMRI) as allowable for use in organic production, processing, and handling under the U.S. Department of Agriculture's national organics standards, also called the National Organic Program (NOP), consistent with requirements at 7 C.F.R. Part 205.

(2) Pesticides registered by WSDA under chapter 15.58 RCW as allowed for use in the production, processing, and handling of marijuana. Pesticides must be used consistent with the label requirements.

(3) Commercial fertilizers registered by WSDA under chapter 15.54 RCW.

(4) Potting soil and other growing media available commercially in the state of Washington may be used in marijuana production. Producers growing outdoors are not required to meet land eligibility requirements outlined in 7 C.F.R. Part 205.202.

NEW SECTION

WAC 314-55-085 What are the transportation requirements for a marijuana licensee? (1) **Notification of shipment.** Upon transporting any marijuana or marijuana product, a producer, processor or retailer shall notify the board of the type and amount and/or weight of marijuana and/or marijuana products being transported, the name of transporter, times of departure and expected delivery. This information must be reported in the traceability system described in WAC 314-55-083(4).

(2) **Receipt of shipment.** Upon receiving the shipment, the licensee receiving the product shall report the amount and/or weight of marijuana and/or marijuana products received in the traceability system.

(3) **Transportation manifest.** A complete transport manifest containing all information required by the board must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location.

(5) **Transportation of product.** Marijuana or marijuana products that are being transported must meet the following requirements:

(a) Only the marijuana licensee or an employee of the licensee may transport product;

(b) Marijuana or marijuana products must be in a sealed package or container approved by the board pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) Marijuana or marijuana products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the marijuana or marijuana products;

(e) Any vehicle transporting marijuana or marijuana products must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other facilities receiving product.

NEW SECTION

WAC 314-55-086 What are the mandatory signs a marijuana licensee must post on a licensed premises? (1) **Notices regarding persons under twenty-one years of age** must be conspicuously posted on the premises as follows:

Type of licensee	Sign must contain the following language:	Required location of sign
Marijuana producer, marijuana processor, and marijuana retailer	"Persons under twenty-one years of age not permitted on these premises."	Conspicuous location at each entry to premises.

The board will provide the required notices, or licensees may design their own notices as long as they are legible and contain the required language.

(2) **Signs provided by the board prohibiting opening a package of marijuana or marijuana-infused product in public or consumption of marijuana or marijuana-infused products in public,** must be posted as follows:

Type of premises	Required location of sign
Marijuana retail	Posted in plain view at the main entrance to the establishment.

(3) **The premises' current and valid master license with appropriate endorsements** must be conspicuously posted on the premises and available for inspection by liquor enforcement officers.

NEW SECTION

WAC 314-55-087 What are the recordkeeping requirements for marijuana licensees? (1) Marijuana licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained on the licensed premises for a three-year period and must be made available for inspection if requested by an employee of the liquor control board:

(a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;

(e) All employee records, to include training;

(f) Records of each daily application of pesticides applied to the marijuana plants or growing medium. For each application, the producer shall record the following information on the same day the application is made:

(i) Full name of each employee who applied the pesticide;

(ii) The date the pesticide was applied;

(iii) The name of the pesticide or product name listed on the registration label which was applied;

(iv) The concentration and total amount of pesticide per plant; and

(v) For outdoor production, the concentration of pesticide that was applied to the field. Liquid applications may be recorded as, but are not limited to, amount of product per one hundred gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., one percent). For chemigation applications, record "inches of water applied" or other appropriate measure.

(g) Soil amendment, fertilizers, or other crop production aids applied to the growing medium or used in the process of growing marijuana;

(h) Production and processing records, including harvest and curing, weighing, destruction of marijuana, creating batches of marijuana-infused products and packaging into lots and units;

(i) Records of each batch of extracts or infused marijuana products made, including at a minimum, the lots of usable marijuana or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product produced, such as hash oil, shatter, tincture, infused dairy butter, etc.;

(j) Transportation records as described in WAC 314-55-085;

(k) Inventory records;

(l) All samples sent to an independent testing lab and the quality assurance test results;

(m) All free samples provided to another licensee for purposes of negotiating a sale;

(n) All samples used for testing for quality by the producer or processor;

(o) Sample jars containing usable marijuana provided to retailers; and

(p) Records of any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, marijuana-infused product, or other item containing marijuana.

(2) If the marijuana licensee keeps records within an automated data processing (ADP) and/or point-of-sale (POS) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP and/or POS system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP and/or POS portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(3) The provisions contained in subsections (1) and (2) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

NEW SECTION

WAC 314-55-089 What are the tax and reporting requirements for marijuana licensees? (1) Marijuana licensees must submit monthly report(s) and payments to the board. The required monthly reports must be:

(a) On a form or electronic system designated by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day;

(d) Filed separately for each marijuana license held; and

(e) All records must be maintained and available for review for a three-year period on licensed premises (see WAC 314-55-087).

(2) **Marijuana producer licensees:** On a monthly basis, marijuana producers must maintain records and report purchases from other licensed marijuana producers, current production and inventory on hand, sales by product type, and lost and destroyed product in a manner prescribed by the board.

A marijuana producer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale to a licensed marijuana processor.

(3) **Marijuana processor licensees:** On a monthly basis, marijuana processors must maintain records and report purchases from licensed marijuana producers, production of marijuana-infused products, sales by product type to marijuana retailers, and lost and/or destroyed product in a manner prescribed by the board.

A marijuana processor licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale of usable marijuana and marijuana-infused product to a licensed marijuana retailer.

(4) **Marijuana retailer's licensees:** On a monthly basis, marijuana retailers must maintain records and report purchases from licensed marijuana processors, sales by product type to consumers, and lost and/or destroyed product in a manner prescribed by the board.

A marijuana retailer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each retail sale of usable marijuana or marijuana-infused products.

NEW SECTION

WAC 314-55-092 What if a marijuana licensee fails to report or pay, or reports or pays late? (1) If a marijuana licensee does not submit its monthly reports and payment(s) to the board as required in WAC 314-55-089: The licensee is subject to penalties.

Penalties: A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the board to suspend or revoke a marijuana license.

NEW SECTION

WAC 314-55-095 Marijuana servings and transaction limitations. Marijuana dosage and transaction limitations are as follows:

(1) **Single serving.** A single serving of a marijuana-infused product amounts to ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

(2) **Maximum number of servings.** The maximum number of servings in any one single unit of marijuana-infused product meant to be eaten or swallowed is ten servings or one hundred milligrams of active THC, or Delta 9. A single unit of marijuana-infused extract for inhalation cannot exceed one gram.

(3) **Transaction limitation.** A single transaction is limited to one ounce of usable marijuana, sixteen ounces of marijuana-infused product in solid form, seven grams of marijuana-infused extract for inhalation, and seventy-two ounces of marijuana-infused product in liquid form for persons twenty-one years of age and older.

NEW SECTION

WAC 314-55-097 Marijuana waste disposal—Liquids and solids. (1) Solid and liquid wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

(2) Wastewater generated during marijuana production and processing must be disposed of in compliance with applicable state and local laws and regulations.

(3) Wastes from the production and processing of marijuana plants must be evaluated against the state's dangerous waste regulations (chapter 173-303 WAC) to determine if those wastes designate as dangerous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it designates as a dangerous waste. If a generator's waste does designate as a dangerous waste, then that waste(s) is subject to the applicable management standards found in chapter 173-303 WAC.

(a) Wastes that must be evaluated against the dangerous waste regulations include, but are not limited to, the following:

(i) Waste from marijuana flowers, trim and solid plant material used to create an extract (per WAC 315-55-104).

(ii) Waste solvents used in the marijuana process (per WAC 315-55-104).

(iii) Discarded plant waste, spent solvents and laboratory wastes from any marijuana processing or quality assurance testing.

(iv) Marijuana extract that fails to meet quality testing.

(b) Marijuana wastes that do not designate as dangerous shall be managed in accordance with subsection (4) of this section.

(c) A marijuana plant, usable marijuana, trim and other plant material in itself is not considered dangerous waste as defined under chapter 173-303 WAC unless it has been treated or contaminated with a solvent.

(4) Marijuana waste that does not designate as dangerous waste (per subsection (3) of this section) must be rendered unusable following the methods in subsection (5) of this section prior to leaving a licensed producer, processor, retail facility, or laboratory. Disposal of the marijuana waste rendered unusable must follow the methods under subsection (6) of this section.

(a) Wastes that must be rendered unusable prior to disposal include, but are not limited to, the following:

(i) Waste evaluated per subsection (3) of this section and determined to not designate as "Dangerous Waste."

(ii) Marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.

(iii) Solid marijuana sample plant waste possessed by third-party laboratories accredited by the board to test for quality assurance that must be disposed of.

(iv) Other wastes as determined by the LCB.

(b) A producer or processor must provide the board a minimum of seventy-two hours notice in the traceability system described in WAC 314-55-083(4) prior to rendering the product unusable and disposing of it.

(5) The allowable method to render marijuana plant waste unusable is by grinding and incorporating the marijuana plant waste with other ground materials so the resulting mixture is at least fifty percent

nonmarijuana waste by volume. Other methods to render marijuana waste unusable must be approved by LCB before implementation.

Material used to grind with the marijuana falls into two categories: Compostable waste and noncompostable waste.

(a) Compostable mixed waste: Marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

- (i) Food waste;
- (ii) Yard waste;
- (iii) Vegetable based grease or oils; or
- (iv) Other wastes as approved by the LCB.

(b) Noncompostable mixed waste: Marijuana waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:

- (i) Paper waste;
- (ii) Cardboard waste;
- (iii) Plastic waste;
- (iv) Soil; or
- (v) Other wastes as approved by the LCB.

(6) Marijuana wastes rendered unusable following the method described in subsection (4) of this section can be disposed.

(a) Disposal of the marijuana waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

- (i) Compostable mixed waste: Compost, anaerobic digester, or other facility with approval of the jurisdictional health department.
- (ii) Noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

(b) Disposal of the marijuana waste rendered unusable may be managed on-site by the generator in accordance with the standards of chapter 173-350 WAC.

(c) A record of the final destination of marijuana waste rendered unusable.

NEW SECTION

WAC 314-55-099 Standardized scales. (1) Marijuana producer and processor licensees must have at least one scale on the licensed premises for the traceability and inventory of products.

(2) The scales and other measuring devices are subject to chapter 19.94 RCW, and must meet the requirements of the most current version of chapters 16-662 and 16-664 WAC.

(3) Licensees must register scales on a business license application with business license services through the department of revenue as required under chapter 19.94 RCW.

NEW SECTION

WAC 314-55-102 Quality assurance testing. (1) A person with financial interest in an accredited third-party testing lab may not have

direct or indirect financial interest in a licensed marijuana producer or processor for whom they are conducting required quality assurance tests.

(2) As a condition of accreditation, each lab must employ a scientific director responsible to ensure the achievement and maintenance of quality standards of practice. The scientific director shall meet the following minimum qualifications:

(a) Has earned, from a college or university accredited by a national or regional certifying authority a doctorate in the chemical or biological sciences and a minimum of two years' post-degree laboratory experience; or

(b) Has earned a master's degree in the chemical or biological sciences and has a minimum of four years' of post-degree laboratory experience; or

(c) Has earned a bachelor's degree in the chemical or biological sciences and has a minimum of six years of post-education laboratory experience.

(3) As a condition of accreditation, labs must follow the most current version of the Cannabis Inflorescence and Leaf monograph published by the *American Herbal Pharmacopoeia* or notify the board what alternative scientifically valid testing methodology the lab is following for each quality assurance test. The board may require third-party validation of any monograph or analytical method followed by the lab to ensure the methodology produces scientifically accurate results prior to them using those standards when conducting required quality assurance tests.

(4) As a condition of accreditation, the board may require third-party validation and ongoing monitoring of a lab's basic proficiency to correctly execute the analytical methodologies employed by the lab.

(5) Labs must adopt and follow minimum good lab practices (GLPs), and maintain internal standard operating procedures (SOPs), and a quality control/quality assurance (QC/QA) program as specified by the board. The board or authorized third-party organization can conduct audits of a lab's GLPs, SOPs, QC/QA, and inspect all other related records.

(6) The general body of required quality assurance tests for marijuana flowers, infused products, and extracts may include moisture content, potency analysis, foreign matter inspection, microbiological screening, pesticide and other chemical residue and metals screening, and residual solvents levels.

(7) Table of required quality assurance tests.

Product	Test(s) Required	Sample Size Needed to Complete all Tests
Flowers to be sold as usable marijuana (see note below)	1. Moisture content 2. Potency analysis 3. Foreign matter inspection 4. Microbiological screening	Up to 7 grams
Flowers to be used to make an extract (nonsolvent) like kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources	None	None
Extract (nonsolvent) like kief, hashish, bubble hash or infused dairy butter, or oils or fats derived from natural sources	1. Potency analysis 2. Foreign matter inspection 3. Microbiological screening	Up to 7 grams
Flowers to be used to make an extract (solvent based), made with a CO ₂ extractor, or with a food grade ethanol or glycerin	1. Foreign matter inspection 2. Microbiological screening	Up to 7 grams

Product	Test(s) Required	Sample Size Needed to Complete all Tests
Extract (solvent based) made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity	1. Potency analysis 2. Residual solvent test 3. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with a CO ₂ extractor like hash oil	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with food grade ethanol	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with food grade glycerin or propylene glycol	1. Potency analysis	Up to 1 gram
Infused edible	1. Potency analysis 2. Microbiological screening	1 unit
Infused liquid like a soda or tonic	1. Potency analysis 2. Microbiological screening	1 unit
Infused topical	1. Potency analysis	1 unit

(8) Independent testing labs may request additional sample material in excess of amounts listed in the table in subsection (7) of this section for the purposes of completing required quality assurance tests. Labs meeting the board's accreditation requirements may retrieve samples from a marijuana licensee's licensed premises and transport the samples directly to the lab.

(9) Labs meeting the board's accreditation requirements are not limited in the amount of useable marijuana and marijuana products they may have on their premises at any given time, but they must have records to prove all marijuana and marijuana-infused products only for the testing purposes described in WAC 314-55-102.

(10) At the discretion of the board, a producer or processor must provide an employee of the board or their designee samples in the amount listed in subsection (7) of this section for random compliance checks. Samples may be screened for pesticides and chemical residues, unsafe levels of metals, and used for other quality assurance tests deemed necessary by the board. All costs of this testing will be borne by the producer or processor.

(11) No lot of usable flower or batch of marijuana-infused product may be sold or transported until the completion of all required quality assurance testing.

(12) Any useable marijuana or marijuana-infused product that passed the required quality assurance tests may be labeled as "Class A." Only "Class A" useable marijuana or marijuana-infused product will be allowed to be sold.

(13) If a lot of marijuana flowers fail a quality assurance test, any marijuana plant trim, leaf and other usable material from the same plants automatically fails quality assurance testing also. Upon approval of the board, a lot that fails a quality assurance test may be used to make a CO₂ or solvent based extract. After processing, the CO₂ or solvent based extract must still pass all required quality assurance tests in WAC 314-55-102.

(14) At the request of the producer or processor, the board may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor.

NEW SECTION

WAC 314-55-104 Marijuana processor license extraction requirements. (1) Processors are limited to certain methods, equipment, solvents, gases and mediums when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the board. These solvents must be of at least ninety-nine percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in a spark free environment with proper ventilation, and follow all applicable local fire, safety and building codes in processing and the storage of the solvents.

(3) Processors may use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch and follow all applicable local fire, safety and building codes in processing and the storage of the solvents. The CO₂ must be of at least ninety-nine percent purity.

(4) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(5) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts.

(6) Processors creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(7) Parts per million for one gram of finished extract cannot exceed 500 parts per million or residual solvent or gas when quality assurance tested per RCW 69.50.348.

NEW SECTION

WAC 314-55-105 Packaging and labeling requirements. (1) All usable marijuana and marijuana products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(2) Any container or packaging containing usable marijuana or marijuana products must protect the product from contamination and must not impart any toxic or deleterious substance to the usable marijuana or marijuana product.

(3) Upon the request of a retail customer, a retailer must disclose the name of the accredited third-party testing lab and results of the required quality assurance test for any usable marijuana or other marijuana product the customer is considering purchasing.

(4) usable marijuana and marijuana products may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

(5) The accredited third-party testing lab and required results of the quality assurance test must be included with each lot and disclosed to the customer buying the lot.

(6) A marijuana producer must make quality assurance test results available to any processor purchasing product. A marijuana producer must label each lot of marijuana with the following information:

- (a) Lot number;
- (b) UBI number of the producer; and
- (c) Weight of the product.

(7) Marijuana-infused products meant to be eaten, swallowed, or inhaled, must be packaged in child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act or use standards specified in this subsection. Marijuana-infused product in solid or liquid form may be packaged in plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamper-proof measure. Marijuana-infused product in liquid form may also be sealed using a metal crown cork style bottle cap.

(8) A processor may provide a retailer free samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of usable marijuana. The sample jar and the usable marijuana within may not be sold to a customer and must be either returned to the licensed processor who provide the usable marijuana and sample jar or destroyed by the retailer after use in the manner described in WAC 314-55-097 and noted in the traceability system.

(9) A producer or processor may not treat or otherwise adulterate usable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the usable marijuana.

(10) Labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling Regulation adopted in chapter 16-662 WAC.

(11) All usable marijuana when sold at retail must include accompanying material that contains the following warnings that state:

- (a) "Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health";
- (b) "There may be health risks associated with consumption of this product";
- (c) "Should not be used by women that are pregnant or breast feeding";
- (d) "For use only by adults twenty-one and older. Keep out of reach of children";
- (e) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.

(12) All marijuana-infused products sold at retail must include accompanying material that contains the following warnings that state:

- (a) "There may be health risks associated with consumption of this product";
- (b) "This product is infused with marijuana or active compounds of marijuana";
- (c) "Should not be used by women that are pregnant or breast feeding";

(d) "For use only by adults twenty-one and older. Keep out of reach of children";

(e) "Products containing marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours";

(g) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the base marijuana used to create the extract added to the infused product; and

(h) Statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.

(13) Labels affixed to the container or package containing usable marijuana sold at retail must include:

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

(b) Lot number;

(c) Concentration of THC, THCA, CBD, including a total of active cannabinoids (potency profile);

(d) Net weight in ounces and grams or volume as appropriate;

(e) Warnings that state: "This product has intoxicating effects and may be habit forming";

(f) Statement that "This product may be unlawful outside of Washington state";

(g) Date of harvest.

(h) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.

(14) Sample label mock up for a container or package containing usable marijuana sold at retail with required information:

UBI: 1234567890010001	Lot#: 1423
Date of Harvest: 4-14	
<i>The Best Resins</i>	
Blueberry haze	
16.7 % THC 1.5% CBD	
Warning – This product has intoxicating effect and may be habit forming	
<u>THIS PRODUCT IS UNLAWFUL OUTSIDE WASHINGTON STATE</u>	
Net weight: 7 grams	

(15) Labels affixed to the container or package containing marijuana-infused products sold at retail must include:

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

(b) Lot numbers of all base marijuana used to create the extract;

(c) Batch number;

(d) Date manufactured;

- (e) Best by date;
- (f) Recommended serving size and the number of servings contained within the unit, including total milligrams of active tetrahydrocannabinol (THC), or Delta 9;
- (g) Net weight in ounces and grams, or volume as appropriate;
- (h) List of all ingredients and any allergens;
- (i) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours."
- (j) If a marijuana extract was added to the product, disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract;
- (k) Warnings that state: "This product has intoxicating effects and may be habit forming";
- (l) Statement that "This product may be unlawful outside of Washington state";
- (m) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.
- (16) **Sample label mock up (front and back) for a container or package containing marijuana-infused products sold at retail with required information:**

(Front of label)

UBI: 1234567890010001	Batch#: 5463
<i>The Best Resins</i> <i>Space cake</i>	
CAUTION: when eaten the effects of this product can be delayed by as much as two hours.	
Net weight: 6oz (128grams)	
<u>THIS PRODUCT IS UNLAWFUL OUTSIDE WASHINGTON STATE</u>	

(Back of label)

Manufactured at: 111 Old Hwy Rd., Mytown, WA on 1/14/14 Best by 2/1/14	
INGREDIENTS: Flour, Butter, Canola oil, Sugar, Chocolate, Marijuana, Strawberries, CONTAINS ALLERGENS: Milk, Wheat,	
Serving size: 10 MG of THC This product contains 10 servings and a total of 100 MG of THC	
Warning- This product has intoxicating effects and may be habit forming	

NEW SECTION

WAC 314-55-120 Ownership changes. (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-55-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the qualifying persons in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application.	Application fee and annual fee for current license privilege.
Change in the qualifying persons for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder.	\$75
Change in the qualifying persons in a limited liability company.	Application for change of limited liability company member and/or manager.	\$75

(2) The board may inquire into all matters in connection with any such sale of stock/units or proposed change in officers/members.

NEW SECTION

WAC 314-55-125 Change of location. (1) Changing your marijuana license to a new location requires an application, per the process outlined in WAC 314-55-020.

(2) A change of location occurs any time a move by the licensee results in any change to the physical location address.

NEW SECTION

WAC 314-55-130 Change of business name. (1) If you wish to change the name of your business, you must apply for a change of trade name with the department of revenue, business license service.

(2) If you wish to change your corporation or limited liability company name, you must apply for a change of name through the secretary of state.

(3) See chapter 434-12 WAC for guidelines for trade names.

NEW SECTION

WAC 314-55-135 Discontinue marijuana sales. You must notify the board's enforcement and education division in writing if you plan to stop doing business for more than thirty days, or if you plan to permanently discontinue marijuana sales.

NEW SECTION

WAC 314-55-140 Death or incapacity of a marijuana licensee. (1) The appointed guardian, executor, administrator, receiver, trustee, or assignee must notify the board's licensing and regulation division in the event of the death, incapacity, receivership, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The board may give the appointed guardian, executor, administrator, receiver, trustee, or assignee written approval to continue marijuana sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a marijuana license for the business.

NEW SECTION

WAC 314-55-145 Are marijuana license fees refundable? When a license is suspended or canceled, or the licensed business is discontinued, the unused portion of the marijuana license fee will not be refunded.

NEW SECTION

WAC 314-55-147 What hours may a marijuana retailer licensee conduct sales? A marijuana retailer licensee may sell usable marijuana, marijuana-infused products, and marijuana paraphernalia between the hours of 8 a.m. and 12 a.m.

NEW SECTION

WAC 314-55-150 What are the forms of acceptable identification?

(1) Following are the forms of identification that are acceptable to verify a person's age for the purpose of purchasing marijuana:

(a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the Dis-

trict of Columbia, or "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

(c) Passport;

(d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) The identification document is not acceptable to verify age if expired.

NEW SECTION

WAC 314-55-155 Advertising. (1) **Advertising by retail licensees.** The board limits each retail licensed premises to one sign identifying the retail outlet by the licensee's business name or trade name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right of way. The size of the sign is limited to sixteen hundred square inches.

(2) **General.** All marijuana advertising and labels of useable marijuana and marijuana-infused products sold in the state of Washington may not contain any statement, or illustration that:

(a) Is false or misleading;

(b) Promotes over consumption;

(c) Represents the use of marijuana has curative or therapeutic effects;

(d) Depicts a child or other person under legal age to consume marijuana, or includes:

(i) Objects, such as toys, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana; or

(ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(3) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, usable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter; or

(c) On or in a publicly owned or operated property.

(4) Giveaways, coupons, and distribution of branded merchandise are banned.

(5) All advertising must contain the following warnings:

(a) "This product has intoxicating effects and may be habit forming.";

(b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(c) "There may be health risks associated with consumption of this product."; and

(d) "For use only by adults twenty-one and older. Keep out of the reach of children."

NEW SECTION

WAC 314-55-160 Objections to marijuana license applications. (1) **How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a marijuana license?** Per RCW 69.50.331, the board will notify cities, counties, tribal governments, and port authorities of the following types of marijuana applications. In addition to these entities, any person or group may comment in writing to the board regarding an application.

Type of application	Entities the board will/may notify
Applications for an annual marijuana license at a new location.	- Cities and counties in which the premises is located will be notified. - Tribal governments and port authorities in which the premises is located may be notified.
Applications to change the class of an existing annual marijuana license.	
Changes of ownership at existing licensed premises.	- Cities and counties in which the premises is located will be notified. - Tribal governments and port authorities in which the premises is located may be notified.

(2) **What will happen if a person or entity objects to a marijuana license application?** When deciding whether to issue or deny a marijuana license application, the board will give substantial weight to input from governmental jurisdictions in which the premises is located based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises; and other persons or groups. Note: Per RCW 69.50.331, the board shall not issue a new marijuana license if any of the following are within one thousand feet of the premises to be licensed: Any elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public

parks, public transit centers, libraries, game arcade where admission is not restricted to persons twenty-one years of age or older.

(a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.

(b) If the board denies a marijuana license application based on the objection from a governmental jurisdiction, the applicant(s) may either:

(i) Reapply for the license no sooner than one year from the date on the final order of denial; or

(ii) Submit a written request on a form provided by the board for an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. The request must be received within twenty days of the date the intent to deny notification was mailed.

NEW SECTION

WAC 314-55-165 Objections to marijuana license renewals. (1) How can local cities, counties, tribal governments, or port authorities object to the renewal of a marijuana license?

(a) The board will give governmental jurisdictions approximately ninety days written notice of premises that hold annual marijuana licenses in that jurisdiction that are up for renewal.

(b) Per RCW 69.50.331, if a county, city, tribal government, or port authority wants to object to the renewal of a marijuana license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) The county, city, tribal government, or port authority may submit a written request to the board for an extension for good cause shown.

(d) This letter must be received by the board at least thirty days before the marijuana license expires. The objection must state specific reasons and facts that show issuance of the marijuana license at the proposed location or to the applicant business how it will detrimentally impact the safety, health, or welfare of the community.

(e) If the objection is received within thirty days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(f) Objections from the public will be referred to the appropriate city, county, tribal government, or port authority for action under subsection (2) of this section. Upon receipt of the objection, the board licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate city, county, tribal government, or port authority. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) What will happen if a city, county, tribal government, or port authority objects to the renewal of a marijuana license? The board will give substantial weight to a city, county, tribal govern-

ment, or port authority objection to a marijuana license renewal of a premises in its jurisdiction based upon chronic illegal activity associated with the licensee's operation of the premises. Based on the jurisdiction's input and any information in the licensing file, the board will decide to either renew the marijuana license, or to pursue nonrenewal.

(a) Board decides to renew the marijuana license:	(b) Board decides to pursue nonrenewal of the marijuana license:
(i) The board will notify the jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision. (ii) The jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to renew notification was mailed. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.	(i) The board will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision. (ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to deny notification was mailed. (iii) If the licensee requests a hearing, the governmental jurisdiction will be notified. (iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the marijuana license until a final decision is made.

NEW SECTION

WAC 314-55-505 What are the procedures for notifying a licensee of an alleged violation of a liquor control board statute or regulation? (1) When an enforcement officer believes that a licensee has violated a board statute or regulation, the officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee, licensee's agent, or employee.

(2) The AVN notice will include:

- (a) A complete narrative description of the violation(s) the officer is charging;
- (b) The date(s) of the violation(s);
- (c) A copy of the law(s) and/or regulation(s) allegedly violated;
- (d) An outline of the licensee's options as outlined in WAC 314-55-510; and
- (e) The recommended penalty.

(i) If the recommended penalty is the standard penalty, see WAC 314-55-520 through 314-55-535 for licensees.

(ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty.

NEW SECTION

WAC 314-55-506 What is the process once the board summarily suspends a marijuana license? (1) The board may summarily suspend any license after the board's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Suspension of any license under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary suspension order unless otherwise provided in the order.

(3) When a license has been summarily suspended by the board, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing shall be held within ninety days of the effective date of the summary suspension ordered by the board.

NEW SECTION

WAC 314-55-507 How may a licensee challenge the summary suspension of his or her marijuana license? (1) Upon summary suspension of a license by the board pursuant to WAC 314-55-506, an affected licensee may petition the board for a stay of suspension pursuant to RCW 34.05.467 and 34.05.550(1). A petition for a stay of suspension must be received by the board within fifteen days of service of the summary suspension order. The petition for stay shall state the basis on which the stay is sought.

(2) A hearing shall be held before an administrative law judge within fourteen days of receipt of a timely petition for stay. The hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified to allow the conduct of limited activities under current licenses or permits.

(3) Any hearing conducted pursuant to subsection (2) of this section shall be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing shall consist of the documentary information upon which the summary suspension was based. The licensee or permit holder shall have the burden of demonstrating by clear and convincing evidence that:

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities shall not be deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay shall be effective immediately upon service unless another date is specified in the order.

NEW SECTION

WAC 314-55-508 Review of orders on stay. (1) The licensee, or agency, may petition the board for review of an initial order on stay. Any petition for review must be in writing and received by the board within ten days of service of the initial order. If neither party has requested review within ten days of service, the initial order shall be deemed the final order of the board for purposes of RCW 34.05.467.

(2) If the board receives a timely petition for review, the board shall consider the petition within fifteen days of service of the petition for review. Consideration on review shall be limited to the record of the hearing on stay.

(3) The order of the board on the petition for review shall be effective upon personal service unless another date is specified in the order and is final pursuant to RCW 34.05.467. Final disposition of the petition for stay shall not affect subsequent administrative proceedings for suspension or revocation of a license.

NEW SECTION

WAC 314-55-510 What options does a licensee have once he/she receives a notice of an administrative violation? (1) A licensee has twenty days from receipt of the notice to:

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) What happens if a licensee does not respond to the administrative violation notice within twenty days?

(a) If a licensee does not respond to the administrative violation notice within twenty days, the recommended suspension penalty will go into effect.

(b) If the penalty does not include a suspension, the licensee must pay a twenty-five percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within thirty days of the violation notice issue date.

(3) What are the procedures when a licensee requests a settlement conference?

(a) If the licensee requests a settlement conference, the hearing examiner or designee will contact the licensee to discuss the violation.

(b) Both the licensee and the hearing examiner or designee will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or designee will prepare a compromise settlement agreement. The hearing examiner or designee will forward the compromise settlement agreement, authorized by both parties, to the board, or designee, for approval.

(i) If the board, or designee, approves the compromise, a copy of the signed settlement agreement will be sent to the licensee and will become part of the licensing history.

(ii) If the board, or designee, does not approve the compromise, the licensee will be notified of the decision. The licensee will be given the option to renegotiate with the hearing examiner or designee, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee and the hearing examiner or designee cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or designee will forward a request for an administrative hearing to the board's hearings coordinator.

NEW SECTION

WAC 314-55-515 What are the penalties if a marijuana license holder violates a marijuana law or rule? (1) The purpose of WAC 314-55-515 through 314-55-540 is to outline what penalty a marijuana licensee can expect if a licensee or employee violates a liquor control board law or rule. (WAC rules listed in the categories provide reference areas, and may not be all inclusive.)

(2) Penalties for violations by marijuana licensees or employees are broken down into four categories:

(a) Group One—Public safety violations, WAC 314-55-520.

(b) Group Two—Regulatory violations, WAC 314-55-525.

(c) Group Three—License violations, WAC 314-55-530.

(d) Group Four—Producer violations involving the manufacture, supply, and/or distribution of marijuana by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-55-535.

(3) For the purposes of chapter 314-55 WAC, a three-year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the liquor control board may impose a different penalty than the standard penalties outlined in these schedules. Based on mitigating circumstances, the board may offer a monetary option in lieu of suspension, or alternate penalty, during a settlement conference as outlined in WAC 314-55-510(3).

(a) Mitigating circumstances	(b) Aggravating circumstances
Mitigating circumstances that may result in fewer days of suspension and/or a lower monetary option may include demonstrated business policies and/or practices that reduce the risk of future violations. Examples include: • Having a signed acknowledgment of the business' responsible handling and sales policies on file for each employee; • Having an employee training plan that includes annual training on marijuana laws.	Aggravating circumstances that may result in increased days of suspension, and/or increased monetary option, and/or cancellation of marijuana license may include business operations or behaviors that create an increased risk for a violation and/or intentional commission of a violation. Examples include: • Failing to call 911 for local law enforcement or medical assistance when requested by a customer, a liquor control board officer, or when people have sustained injuries.

NEW SECTION

WAC 314-55-520 Group 1 violations against public safety. Group 1 violations are considered the most serious because they present a direct threat to public safety. Based on chapter 69.50 RCW, some violations have only a monetary option. Some violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor control board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-55-515(4).

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Violations involving minors:	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Sale or service to minor: Sale of marijuana and/or paraphernalia to a person under twenty-one years of age WAC 314-55-079	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Allowing a minor to frequent a restricted area. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	
Employee under legal age. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Licensee and/or employee open and/or consuming marijuana on a retail licensed premises. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Conduct violations: Criminal conduct: Permitting or engaging in criminal conduct.	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized pesticides, soil amendments, fertilizers, other crop production aids. WAC 314-55-020(8) WAC 314-55-083(4) WAC 314-55-087 (1)(f)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Adulterate usable marijuana with organic or nonorganic chemical or other compound WAC 314-55-105(8)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized solvents or gases in processing WAC 314-55-104	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. WAC 314-55-050	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Marijuana purchased from an unauthorized source. Marijuana sold to an unauthorized source. Sales in excess of transaction limitations. WAC 314-55-095(3)	Cancellation of license Cancellation of license Cancellation of license			

NEW SECTION

WAC 314-55-525 Group 2 regulatory violations. Group 2 violations are violations involving general regulation and administration of re-tail or nonretail licenses.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Hours of service: Sales of marijuana between 12:00 a.m. and 8:00 a.m.	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Advertising: Violations (statements/illustrations). WAC 314-55-155(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Advertising violations – Sign exceeding 1600 square inches; within 1000 feet of prohibited areas; on or in public transit vehicles, shelters, or publicly owned or operated property. RCW 69.50.357 RCW 69.50.369	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Packaging and/or labeling violations (processor/retailer). WAC 314-55-105	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Licensee/employee failing to display required security badge. WAC 314-55-083(1)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089 (3), (4), and (5)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to submit monthly tax reports and/or payments. WAC 314-55-089 WAC 314-55-092	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Signs: Failure to post required signs. WAC 314-55-086	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to utilize and/or maintain traceability (processor or retail licensee). WAC 314-55-083(4)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Violation of transportation requirements. WAC 314-55-085	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Exceeding maximum serving requirements for marijuana-infused products. WAC 314-55-095(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure for a processor to meet marijuana waste disposal requirements. WAC 314-55-097	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to maintain standardized scale requirements (processor/retailer). WAC 314-55-099	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Marijuana processor extraction requirements. WAC 314-55-104	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Retail outlet selling unauthorized products. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Retailer displaying products in a manner visible to the general public from a public right of way. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

NEW SECTION

WAC 314-55-530 Group 3 license violations. Group 3 violations are violations involving licensing requirements, license classification, and special restrictions.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
True party of interest violation. WAC 314-55-035	Cancellation of license			
Failure to furnish required documents. WAC 314-55-050	Cancellation of license			
Misrepresentation of fact. WAC 314-55-050	Cancellation of license			
Operating plan: Violations of a board-approved operating plan. WAC 314-55-020	5-day suspension or \$500 monetary option	10-day suspension or \$1,500 monetary option	30-day suspension	Cancellation of license
Failing to gain board approval for changes in existing ownership. WAC 314-55-120	30-day suspension	Cancellation of license		
Failure to maintain required insurance. WAC 314-55-080	30-day suspension	Cancellation of license		

NEW SECTION

WAC 314-55-535 Group 4 marijuana producer violations. Group 4 violations are violations involving the manufacture, supply, and/or distribution of marijuana by marijuana producer licensees and prohibited practices between a marijuana producer licensee and a marijuana retailer licensee.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Unauthorized sale to a retail licensee. WAC 314-55-075	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to utilize and/or maintain traceability. WAC 314-55-083(4)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Packaging and/or labeling violations (producer). WAC 314-55-105	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Unauthorized product/unapproved storage or delivery.	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure for a producer to meet marijuana waste disposal requirements. WAC 314-55-097	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089 (2) and (4) WAC 314-55-092	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Violation of transportation requirements. WAC 314-55-085	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain standardized scale requirements (producer). WAC 314-55-099	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Violation.				

NEW SECTION**WAC 314-55-540 Information about marijuana license suspensions.**

(1) On the date a marijuana license suspension goes into effect, a liquor control officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor control board due to a violation of a board law or rule.

(2) During the period of marijuana license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable marijuana laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor control board's suspension notice.

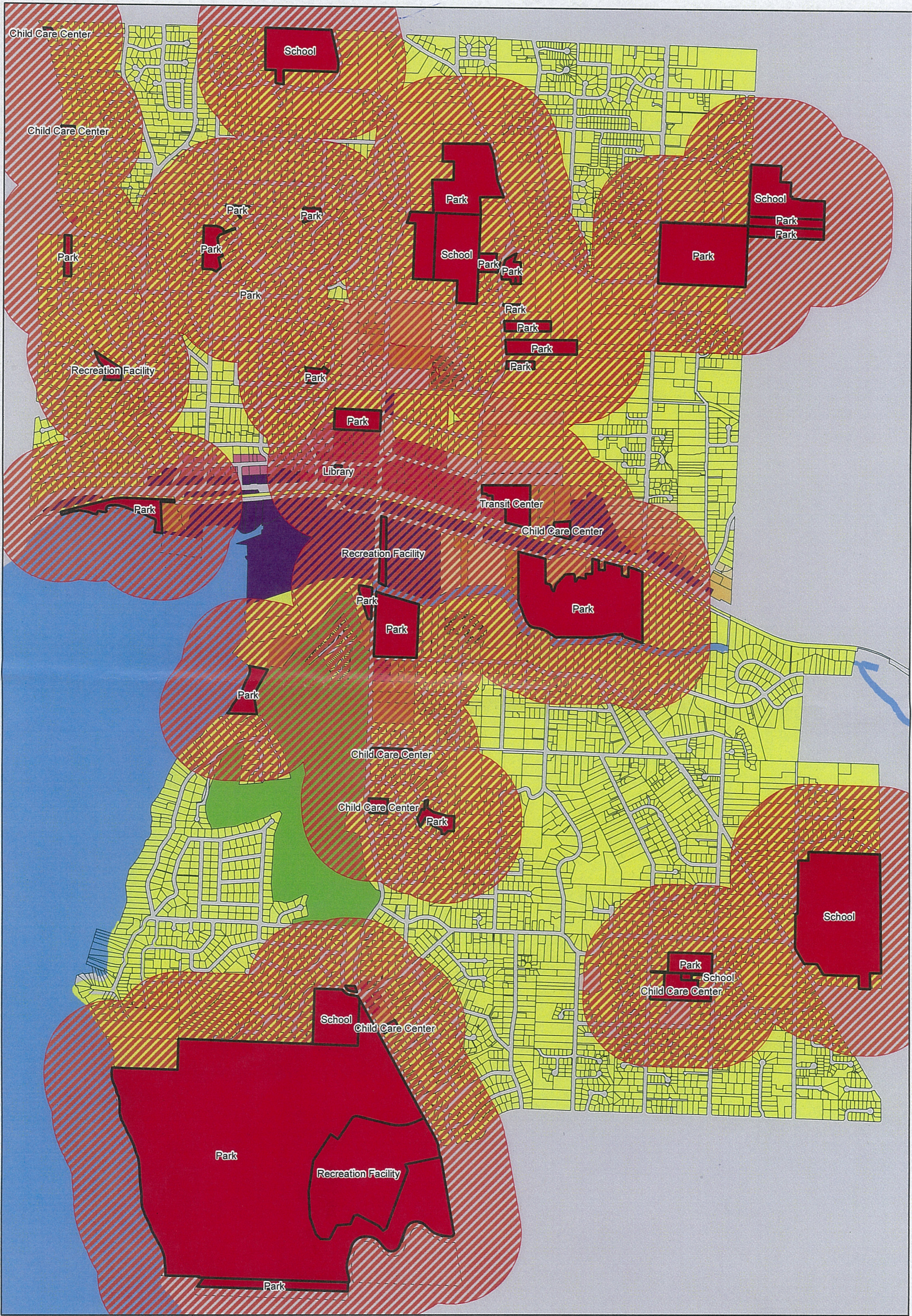
(3) During the period of marijuana license suspension:

(a) A marijuana retailer or marijuana processor licensee may not operate his/her business during the dates and times of suspension.

(b) There is no sale, delivery, service, destruction, removal, or receipt of marijuana during a license suspension.

(c) A producer of marijuana may do whatever is necessary as a part of the producing process to keep current stock that is on hand at the time of the suspension from spoiling or becoming unsalable during a suspension, provided it does not include processing the product. The producer may not receive any agricultural products used in the production of marijuana during the period of suspension.

Potential Locations - Marijuana Businesses



- | | | | |
|---------------------------|------------------------------------|---------------------|-----------------------|
| Properties | Residential, 12 Dwellings Per Acre | Community Business | Neighborhood Business |
| 1,000 Foot Buffer | Residential, 18 Dwellings Per Acre | Downtown Commercial | Public/Semi-Public |
| Zoning | Residential, 24 Dwellings Per Acre | Golf Course | Regional Business |
| Single Family Residential | | | |

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



Retail Store Locations

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Jurisdiction	2010 Population Census	Number of Retail Outlets	County Total
Quincy	6,750	1	
Grays Harbor County	72,797		6
At Large	28,438	3	
Aberdeen	16,896	1	
Hoquiam	8,726	1	
Ocean Shores	5,569	1	
Island County	78,506		4
At Large	53,565	3	
Oak Harbor	22,075	1	
Jefferson County *	29,872		4
At Large	20,759	3	
Port Townsend	9,113	1	
King County *	1,931,249		61
At Large	325,000	11	
Auburn (part)	62,761	2	
Bellevue	122,363	4	
Burien	33,313	1	
Des Moines	29,673	1	
Federal Way	89,306	3	
Issaquah	30,434	1	
Kent	92,411	3	
Kirkland	48,787	2	
Maple Valley	22,684	1	
Mercer Island	22,699	1	
Redmond	54,144	2	
Renton	90,927	3	
Sammamish	45,780	1	
SeaTac	26,909	1	
Seattle	608,660	21	
Shoreline	53,007	2	
Tukwila	19,107	1	
Kitsap County *	251,133		10
At Large	170,022	7	
Bainbridge Island	23,025	1	
Bremerton	37,729	2	
Kittitas County *	40,915		4
At Large	18,063	2	
Ellensburg	18,174	2	
Klickitat County *	20,318		4
At Large	13,975	3	
Goldendale	3,407	1	
Lewis County *	75,455		7
At Large	44,892	4	
Centralia	16,336	2	
Chehalis	7,259	1	
Lincoln County	10,570		2
At Large	5,081	2	



Robert W. Ferguson

Attorney General of Washington

STATUTES—INITIATIVE AND REFERENDUM—ORDINANCES—COUNTIES—CITIES AND TOWNS—PREEMPTION—POLICE POWERS—Whether Statewide Initiative Establishing System For Licensing Marijuana Producers, Processors, And Retailers Preempts Local Ordinances

1. Initiative 502, which establishes a licensing and regulatory system for marijuana producers, processors, and retailers, does not preempt counties, cities, and towns from banning such businesses within their jurisdictions.
2. Local ordinances that do not expressly ban state-licensed marijuana licensees from operating within the jurisdiction but make such operation impractical are valid if they properly exercise the local jurisdiction's police power.

January 16, 2014

The Honorable Sharon Foster
 Chair, Washington State Liquor Control Board
 3000 Pacific Avenue SE
 Olympia, WA 98504-3076

Cite As:
 AGO 2014 No. 2

Dear Chair Foster:

By letter previously acknowledged, you have requested our opinion on the following paraphrased questions:

1. Are local governments preempted by state law from banning the location of a Washington State Liquor Control Board licensed marijuana producer, processor, or retailer within their jurisdiction?
2. May a local government establish land use regulations (in excess of the Initiative 502 buffer and other Liquor Control Board requirements) or business license requirements in a fashion that makes it impractical for a licensed marijuana business to locate within their jurisdiction?

BRIEF ANSWERS

1. No. Under Washington law, there is a strong presumption against finding that state law preempts local ordinances. Although Initiative 502 (I-502) establishes a licensing and regulatory system for marijuana producers, processors, and retailers in Washington State, it includes no clear indication that it was intended to preempt local authority to regulate such

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businesses. We therefore conclude that I-502 left in place the normal powers of local governments to regulate within their jurisdictions.

2. Yes. Local governments have broad authority to regulate within their jurisdictions, and nothing in I-502 limits that authority with respect to licensed marijuana businesses.

BACKGROUND

I-502 was approved by Washington voters on November 6, 2012, became effective 30 days thereafter, and is codified in RCW 69.50. It decriminalized under state law the possession of limited amounts of useable marijuana¹ and marijuana-infused products by persons twenty-one years or older. It also decriminalized under state law the production, delivery, distribution, and sale of marijuana, so long as such activities are conducted in accordance with the initiative's provisions and implementing regulations. It amended the implied consent laws to specify that anyone operating a motor vehicle is deemed to have consented to testing for the active chemical in marijuana, and amended the driving under the influence laws to make it a criminal offense to operate a motor vehicle under the influence of certain levels of marijuana.

I-502 also established a detailed licensing program for three categories of marijuana businesses: production, processing, and retail sales. The marijuana producer's license governs the production of marijuana for sale at wholesale to marijuana processors and other marijuana producers. RCW 69.50.325(1). The marijuana processor's license governs the processing, packaging, and labeling of useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers. RCW 69.50.325(2). The marijuana retailer's license governs the sale of useable marijuana and marijuana-infused products in retail stores. RCW 69.50.325(3).

Applicants for producer, processor, and retail sales licenses must identify the location of the proposed business. RCW 69.50.325(1), (2), (3). This helps ensure compliance with the requirement that "no license may be issued authorizing a marijuana business within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older." RCW 69.50.331(8).

Upon receipt of an application for a producer, processor, or retail sales license, the Liquor Control Board must give notice of the application to the appropriate local jurisdiction. RCW 69.50.331(7)(a) (requiring notice to the chief executive officer of the incorporated city or town if the application is for a license within an incorporated city or town, or the county legislative authority if the application is for a license outside the boundaries of incorporated

¹ Useable marijuana means "dried marijuana flowers" and does not include marijuana-infused products. RCW 69.50.101(II).

The Honorable Sharon Foster

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cities or towns). The local jurisdiction may file written objections with respect to the applicant or the premises for which the new or renewed license is sought. RCW 69.50.331(7)(b).

The local jurisdictions' written objections must include a statement of all facts upon which the objections are based, and may include a request for a hearing, which the Liquor Control Board may grant at its discretion. RCW 69.50.331(7)(c). The Board must give "substantial weight" to a local jurisdiction's objections based upon chronic illegal activity associated with the applicant's operation of the premises proposed to be licensed, the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. RCW 69.50.331(9). Chronic illegal activity is defined as a pervasive pattern of activity that threatens the public health, safety, and welfare, or an unreasonably high number of citations for driving under the influence associated with the applicant's or licensee's operation of any licensed premises. RCW 69.50.331(9).²

In addition to the licensing provisions in statute, I-502 directed the Board to adopt rules establishing the procedures and criteria necessary to supplement the licensing and regulatory system. This includes determining the maximum number of retail outlets that may be licensed in each county, taking into consideration population distribution, security and safety issues, and the provision of adequate access to licensed sources of useable marijuana and marijuana-infused products to discourage purchases from the illegal market. RCW 69.50.345(2). The Board has done so, capping the number of retail licenses in the least populated counties of Columbia County, Ferry County, and Wahkiakum County at one and the number in the most populated county of King County at 61, with a broad range in between. *See* WAC 314-55-081.

The Board also adopted rules establishing various requirements mandated or authorized by I-502 for locating and operating marijuana businesses on licensed premises, including minimum residency requirements, age restrictions, and background checks for licensees and employees; signage and advertising limitations; requirements for insurance, recordkeeping, reporting, and taxes; and detailed operating plans for security, traceability, employee qualifications and training, and destruction of waste. *See generally* WAC 314-55.

Additional requirements apply for each license category. Producers must describe plans for transporting products, growing operations, and testing procedures and protocols. WAC 314-55-020(9). Processors must describe plans for transporting products, processing operations, testing procedures and protocols, and packaging and labeling. WAC 314-55-020(9). Finally, retailers must also describe which products will be sold and how they will be displayed, and may only operate between 8 a.m. and 12 midnight. WAC 314-55-020(9), -147.

The rules also make clear that receipt of a license from the Liquor Control Board does not entitle the licensee to locate or operate a marijuana processing, producing, or retail business in violation of local rules or without any necessary approval from local jurisdictions. WAC 314-

² The provision for objections based upon chronic illegal activity is identical to one of the provisions for local jurisdictions to object to the granting or renewal of liquor licenses. RCW 66.24.010(12).

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-55-020(11) provides as follows: “The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.”

ANALYSIS

Your question acknowledges that local governments have jurisdiction over land use issues like zoning and may exercise the option to issue business licenses. This authority comes from article XI, section 11 of the Washington Constitution, which provides that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws.” The limitation on this broad local authority requiring that such regulations not be “in conflict with general laws” means that state law can preempt local regulations and render them unconstitutional either by occupying the field of regulation, leaving no room for concurrent local jurisdiction, or by creating a conflict such that state and local laws cannot be harmonized. *Lawson v. City of Pasco*, 168 Wn.2d 675, 679, 230 P.3d 1038 (2010).

Local ordinances are entitled to a presumption of constitutionality. *State v. Kirwin*, 165 Wn.2d 818, 825, 203 P.3d 1044 (2009). Challengers to a local ordinance bear a heavy burden of proving it unconstitutional. *Id.* “Every presumption will be in favor of constitutionality.” *HJS Dev., Inc. v. Pierce County ex rel. Dep’t of Planning & Land Servs.*, 148 Wn.2d 451, 477, 61 P.3d 1141 (2003) (internal quotation marks omitted).

A. Field Preemption

Field preemption arises when a state regulatory system occupies the entire field of regulation on a particular issue, leaving no room for local regulation. *Lawson*, 168 Wn.2d at 679. Field preemption may be expressly stated or may be implicit in the purposes or facts and circumstances of the state regulatory system. *Id.*

I-502 does not express any indication that the state licensing and operating system preempts the field of marijuana regulation. Although I-502 was structured as a series of amendments to the controlled substances act, which does contain a preemption section, that section makes clear that state law “fully occupies and preempts the entire field of *setting penalties* for violations of the controlled substances act.” RCW 69.50.608 (emphasis added).³ It also allows “[c]ities, towns, and counties or other municipalities [to] enact only those laws and

³ RCW 69.50.608 provides: “The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality.” The Washington Supreme Court has interpreted this provision as giving local jurisdictions concurrent authority to criminalize drug-related activity. *City of Tacoma v. Luvene*, 118 Wn.2d 826, 835, 827 P.2d 1374 (1992).

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ordinances relating to controlled substances that are consistent with this chapter.” RCW 69.50.608. Nothing in this language expresses an intent to preempt the entire field of regulating businesses licensed under I-502.

With respect to implied field preemption, the “legislative intent” of an initiative is derived from the collective intent of the people and can be ascertained by material in the official voter’s pamphlet. *Dep’t of Revenue v. Hoppe*, 82 Wn.2d 549, 552, 512 P.2d 1094 (1973); *see also Roe v. TeleTech Customer Care Mgmt., LLC*, 171 Wn.2d 736, 752-53, 257 P.3d 586 (2011). Nothing in the official voter’s pamphlet evidences a collective intent for the state regulatory system to preempt the entire field of marijuana business licensing or operation. Voters’ Pamphlet 23-30 (2012). Moreover, both your letter and the Liquor Control Board’s rules recognize the authority of local jurisdictions to impose regulations on state licensees. These facts, in addition to the absence of express intent suggesting otherwise, make clear that I-502 and its implementing regulations do not occupy the entire field of marijuana business regulation.

B. Conflict Preemption

Conflict preemption arises “when an ordinance permits what state law forbids or forbids what state law permits.” *Lawson*, 168 Wn.2d at 682. An ordinance is constitutionally invalid if it directly and irreconcilably conflicts with the statute such that the two cannot be harmonized. *Id.*; *Weden v. San Juan County*, 135 Wn.2d 678, 693, 958 P.2d 273 (1998). Because “[e]very presumption will be in favor of constitutionality,” courts make every effort to reconcile state and local law if possible. *HJS Dev.*, 148 Wn.2d at 477 (internal quotation marks omitted). We adopt this same deference to local jurisdictions.

An ordinance banning a particular activity directly and irreconcilably conflicts with state law when state law specifically entitles one to engage in that same activity in circumstances outlawed by the local ordinance. For example, in *Entertainment Industry Coalition v. Tacoma-Pierce County Health Department*, 153 Wn.2d 657, 661-63, 105 P.3d 985 (2005), the state law in effect at the time banned smoking in public places except in designated smoking areas, and specifically authorized owners of certain businesses to designate smoking areas. The state law provided, in relevant part: “A smoking area may be designated in a public place by the owner” Former RCW 70.160.040(1) (2004), *repealed by* Laws of 2006, ch. 2, § 7(2) (Initiative Measure 901). The Tacoma-Pierce County Health Department ordinance at issue banned smoking in all public places. The Washington Supreme Court struck down the ordinance as directly and irreconcilably conflicting with state law because it prohibited what the state law authorized: the business owner’s choice whether to authorize a smoking area.

Similarly, in *Parkland Light & Water Co. v. Tacoma-Pierce County Board of Health*, 151 Wn.2d 428, 90 P.3d 37 (2004), the Washington Supreme Court invalidated a Tacoma-Pierce County Health Department ordinance requiring fluoridated water. The state law at issue authorized the water districts to decide whether to fluoridate, saying: “A water district by a

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majority vote of its board of commissioners may fluoridate the water supply system of the water district.” RCW 57.08.012. The Court interpreted this provision as giving water districts the ability to regulate the content and supply of their water systems. *Parkland Light & Water Co.*, 151 Wn.2d at 433. The local health department’s attempt to require fluoridation conflicted with the state law expressly giving that choice to the water districts. As they could not be reconciled, the Court struck down the ordinance as unconstitutional under conflict preemption analysis.

By contrast, Washington courts have consistently upheld local ordinances banning an activity when state law regulates the activity but does not grant an unfettered right or entitlement to engage in that activity. In *Weden v. San Juan County*, the Court upheld the constitutionality of the County’s prohibition on motorized personal watercraft in all marine waters and one lake in San Juan County. The state laws at issue created registration and safety requirements for vessels and prohibited operation of unregistered vessels. The Court rejected the argument that state regulation of vessels constituted permission to operate vessels anywhere in the state, saying, “[n]owhere in the language of the statute can it be suggested that the statute creates an unbridged right to operate [personal watercraft] in all waters throughout the state.” *Weden*, 135 Wn.2d at 695. The Court further explained that “[r]egistration of a vessel is nothing more than a precondition to operating a boat.” *Id.* “No unconditional right is granted by obtaining such registration.” *Id.* Recognizing that statutes often impose preconditions without granting unrestricted permission to participate in an activity, the Court also noted the following examples: “[p]urchasing a hunting license is a precondition to hunting, but the license certainly does not allow hunting of endangered species or hunting inside the Seattle city limits,” and “[r]eaching the age of 16 is a precondition to driving a car, but reaching 16 does not create an unrestricted right to drive a car however and wherever one desires.” *Id.* at 695 (internal citation omitted).

Relevant here, the dissent in *Weden* argued: “Where a state statute licenses a particular activity, counties may enact reasonable regulations of the licensed activity within their borders but they may not prohibit same outright[,]” and that an ordinance banning the activity “renders the state permit a license to do nothing at all.” *Weden*, 135 Wn.2d at 720, 722 (Sanders, J., dissenting). The majority rejected this approach, characterizing the state law as creating not an unbridged right to operate personal watercraft in the state, but rather a registration requirement that amounted only to a precondition to operating a boat in the state.

In *State ex rel. Schillberg v. Everett District Justice Court*, 92 Wn.2d 106, 594 P.2d 448 (1979), the Washington Supreme Court similarly upheld a local ban on internal combustion motors on certain lakes. The Court explained: “A statute will not be construed as taking away the power of a municipality to legislate unless this intent is clearly and expressly stated.” *Id.* at 108. The Court found no conflict because nothing in the state laws requiring safe operation of vessels either expressly or impliedly provided that vessels would be allowed on all waters of the state.

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The Washington Supreme Court also rejected a conflict preemption challenge to the City of Pasco's ordinance prohibiting placement of recreational vehicles within mobile home parks. *Lawson*, 168 Wn.2d at 683-84. Although state law regulated rights and duties arising from mobile home tenancies and recognized that such tenancies may include recreational vehicles, the Court reasoned "[t]he statute does not forbid recreational vehicles from being placed in the lots, nor does it create a right enabling their placement." *Id.* at 683. The state law simply regulated recreational vehicle tenancies, where such tenancies exist, but did not prevent municipalities from deciding whether or not to allow them. *Id.* at 684.

Accordingly, the question whether "an ordinance . . . forbids what state law permits" is more complex than it initially appears. *Lawson*, 168 Wn.2d at 682. The question is not whether state law permits an activity in some places or in some general sense; even "[t]he fact that an activity may be licensed under state law does not lead to the conclusion that it must be permitted under local law." *Rabon v. City of Seattle*, 135 Wn.2d 278, 292, 957 P.2d 621 (1998) (finding no preemption where state law authorized licensing of "dangerous dogs" while city ordinance forbade ownership of "vicious animals"). Rather, a challenger must meet the heavy burden of proving that state law creates an entitlement to engage in an activity in circumstances outlawed by the local ordinance. For example, the state laws authorizing business owners to designate smoking areas and water districts to decide whether to fluoridate their water systems amounted to statewide entitlements that local jurisdictions could not take away. But the state laws requiring that vessels be registered and operated safely and regulating recreational vehicles in mobile home tenancies simply contemplated that those activities would occur in some places and established preconditions; they did not, however, override the local jurisdictions' decisions to prohibit such activities.

Here, I-502 authorizes the Liquor Control Board to issue licenses for marijuana producers, processors, and retailers. Whether these licenses amount to an entitlement to engage in such businesses regardless of local law or constitute regulatory preconditions to engaging in such businesses is the key question, and requires a close examination of the statutory language.

RCW 69.50.325 provides, in relevant part:

(1) There shall be a marijuana producer's license to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers, regulated by the state liquor control board and subject to annual renewal. . . .

(2) There shall be a marijuana processor's license to process, package, and label useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers, regulated by the state liquor control board and subject to annual renewal. . . .

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(3) There shall be a marijuana retailer's license to sell useable marijuana and marijuana-infused products at retail in retail outlets, regulated by the state liquor control board and subject to annual renewal. . . .

RCW 69.50.325(1)-(3). Each of these subsections also includes language providing that activities related to such licenses are not criminal or civil offenses under Washington state law, provided they comply with I-502 and the Board's rules, and that the licenses shall be issued in the name of the applicant and shall specify the location at which the applicant intends to operate. They also establish fees for issuance and renewal and clarify that a separate license is required for each location at which the applicant intends to operate. RCW 69.50.325.

While these provisions clearly authorize the Board to issue licenses for marijuana producers, processors, and retail sales, they lack the definitive sort of language that would be necessary to meet the heavy burden of showing state preemption. They simply state that there "shall be a . . . license" and that engaging in such activities with a license "shall not be a criminal or civil offense under Washington state law." RCW 69.50.325(1). Decriminalizing such activities under state law and imposing restrictions on licensees does not amount to entitling one to engage in such businesses regardless of local law. Given that "every presumption" is in favor of upholding local ordinances (*HJS Dev., Inc.*, 148 Wn.2d at 477), we find no irreconcilable conflict between I-502's licensing system and the ability of local governments to prohibit licensees from operating in their jurisdictions.

We have considered and rejected a number of counterarguments in reaching this conclusion. First, one could argue that the statute, in allowing Board approval of licenses at specific locations (RCW 69.50.325(1), (2), (3)), assumes that the Board can approve a license at any location in any jurisdiction. This argument proves far too much, however, for it suggests that a license from the Board could override any local zoning ordinance, even one unrelated to I-502. For example, I-502 plainly would not authorize a licensed marijuana retailer to locate in an area where a local jurisdiction's zoning allows no retail stores of any kind. The Board's own rules confirm this: "The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements." WAC 314-55-020(11).

Second, one could argue that a local jurisdiction's prohibition on marijuana licensees conflicts with the provision in I-502 authorizing the Board to establish a maximum number of licensed retail outlets in each county. RCW 69.50.345(2); *see also* RCW 69.50.354. But there is no irreconcilable conflict here, because the Board is allowed to set only a *maximum*, and nothing in I-502 mandates a minimum number of licensees in any jurisdiction. The drafters of I-502 certainly could have provided for a minimum number of licensees per jurisdiction, which would have been a stronger indicator of preemptive intent, but they did not.

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Third, one could argue that because local jurisdictions are allowed to object to specific license applications and the Board is allowed to override those objections and grant the license anyway (RCW 69.50.331(7), (9)); local jurisdictions cannot have the power to ban licensees altogether. But such a ban can be harmonized with the objection process; while some jurisdictions might want to ban I-502 licensees altogether, others might want to allow them but still object to specific applicants or locations. Indeed, this is the system established under the state liquor statutes, which I-502 copied in many ways. *Compare* RCW 69.50.331 *with* RCW 66.24.010 (governing the issuance of marijuana licenses and liquor licenses, respectively, in parallel terms and including provisions for local government input regarding licensure). The state laws governing liquor allow local governments to object to specific applications (RCW 66.24.010), while also expressly authorizing local areas to prohibit the sale of liquor altogether. *See generally* RCW 66.40. That the liquor opt out statute coexists with the liquor licensing notice and comment process undermines any argument that a local marijuana ban irreconcilably conflicts with the marijuana licensing notice and comment opportunity.

Fourth, RCW 66.40 expressly allows local governments to ban the sale of liquor. Some may argue that by omitting such a provision, I-502's drafters implied an intent to bar local governments from banning the sale of marijuana. Intent to preempt, however, must be "clearly and expressly stated." *State ex rel. Schillberg*, 92 Wn.2d at 108. Moreover, it is important to remember that cities, towns, and counties derive their police power from article XI, section 11 of the Washington Constitution, not from statute. Thus, the relevant question is not whether the initiative provided local jurisdictions with such authority, but whether it removed local jurisdictions' preexisting authority.

Finally, in reaching this conclusion, we are mindful that if a large number of jurisdictions were to ban licensees, it could interfere with the measure's intent to supplant the illegal marijuana market. But this potential consequence is insufficient to overcome the lack of clear preemptive language or intent in the initiative itself. The drafters of the initiative certainly could have used clear language preempting local bans. They did not. The legislature, or the people by initiative, can address this potential issue if it actually comes to pass.

With respect to your second question, about whether local jurisdictions can impose regulations making it "impractical" for I-502 licensees to locate and operate within their boundaries, the answer depends on whether such regulations constitute a valid exercise of the police power or otherwise conflict with state law. As a general matter, as discussed above, the Washington Constitution provides broad authority for local jurisdictions to regulate within their boundaries and impose land use and business licensing requirements. Ordinances must be a reasonable exercise of a jurisdiction's police power in order to pass muster under article XI, section 11 of the state constitution. *Weden*, 135 Wn.2d at 700. A law is a reasonable regulation if it promotes public safety, health, or welfare and bears a reasonable and substantial relation to accomplishing the purpose pursued. *Id.* (applying this test to the personal watercraft ordinance); *see also Duckworth v. City of Bonney Lake*, 91 Wn.2d 19, 26, 586 P.2d 860 (1978) (applying this

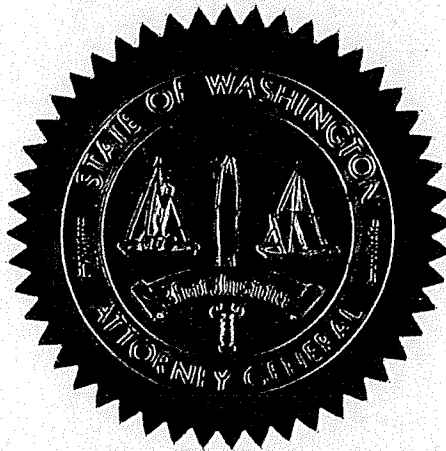
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test to a zoning ordinance). Assuming local ordinances satisfy this test, and that no other constitutional or statutory basis for a challenge is presented on particular facts, we see no impediment to jurisdictions imposing additional regulatory requirements, although whether a particular ordinance satisfies this standard would of course depend on the specific facts in each case.

We trust that the foregoing will be useful to you.



WTOS

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U.S. Department of Justice Page 107 of 238

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

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 Subject: Guidance Regarding Marijuana Enforcement

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- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

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must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

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As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Target Zero Goal Resolution

For Council Meeting Agenda of: April 28, 2014

Department: City Manager

Prepared by: Kris Overleese, PE

To Be Presented By: Rob Karlinsey

Proposed Council Action/Motion:

Adopt Resolution No. 14-235 which sets a goal of Target Zero pedestrian and bicycle deaths within the City.

Approved by Department Head:

Approved by City Attorney:

Approved by Finance Director:

Approved by City Manager:

Initial & Date

KMO 4/17/14

NA

4/17/14

RK/KMO
17 APR 2014

Exhibits/Attachments:

A: Resolution No. 14-235

Expenditure Required NA

Amount Budgeted NA

Appropriation Required NA

INFORMATION/BACKGROUND:

Kenmore City Council requested that staff bring forward a Target Zero Resolution for Council consideration. The document was drafted by Councilman Herbig with staff assistance. The intent of the Target Zero goal is to achieve zero pedestrian and bicycle fatalities and serious injuries within our community.

Other government organizations have adopted a Target Zero goal and specifically the State of Washington has adopted a Target Zero program that meets federal requirements for state government road safety. The State of Washington's program states that between 2009 and 2011, an average of 469 people were killed and 2,421 people were seriously injured on Washington's roadways. In Kenmore, there have been four pedestrians killed in the last two years. These accidents and deaths are devastating and our community is grieving and pulling together to take on this vital issue. Adoption of a Target Zero goal shares a message with the community that we are responsible for each other and that the City takes seriously its role of positively influencing the outcome of roadway safety for all users.

The City alone cannot control the outcome of safety. Our community collectively must do its part to meet this Target Zero goal. The City, each citizen, guest, commuter, driver, bicyclist and pedestrian have a role in meeting the goal.

Over the next several months, the City will take concrete steps to positively influence the outcome of safety for our roadway users including: rectangular rapid flashing beacons at non-stop controlled crosswalks on arterials, evaluation of lighting and location of arterial non-stop controlled crosswalks,

XII. B. Adopt Resolution No. 14-235, Setting a "Target Zero..."

speed review of all arterials, rechannelization of 61st Avenue NE and Simonds Road, education to increase awareness and positively influence road use behaviors, and volunteer coordination. The City has asked for community volunteers to serve on an ad hoc committee to amend the existing Bicycle Strategy to include a pedestrian strategy component. This committee will begin as soon as City resources are in place to manage the committee, likely late May.

Staff recommends that Council adopt the Target Zero resolution which is consistent with the City's short and long term strategies to improve pedestrian and bicycle safety and also the City's Comprehensive Plan.

FISCAL CONSIDERATION:

The adoption of the Target Zero resolution itself has no financial commitment. Council recently took action to provide resources for the short and longer term activities outlined above. During the 2014 budget process, other programs and tasks that could further the Target Zero goal could be identified and programmed within the budget for 2015-2016.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Community Safety

**CITY OF KENMORE
WASHINGTON
RESOLUTION NO. 14-235**

**A RESOLUTION OF THE CITY COUNCIL OF KENMORE,
WASHINGTON, ADOPTING TARGET ZERO AS A CITY GOAL.**

WHEREAS, bicycling and walking improve people's health, save money in household budgets, and improve people's general well-being and expressed happiness;

WHEREAS, all people deserve to be able to get where they are going safely, whether by driving, riding transit, walking, or bicycling;

WHEREAS, from 2004 through March 2014, six people have lost their lives, and another seven people were seriously injured, in collisions with motorized vehicles in the City of Kenmore while bicycling or walking;

WHEREAS, the City of Kenmore Comprehensive Plan calls for coordinating transportation funding and policies toward a more urban land use pattern and increasing the mode share of walking, bicycling, and transit;

WHEREAS, the Washington Traffic Safety Commission and King County have "Target Zero" programs to provide a comprehensive, data-driven framework of specific goals, objectives, and strategies for reducing traffic fatalities and serious injuries;

WHEREAS, national best practices for street design have been significantly advanced in recent years, such as multimodal level of service analysis, "complete streets" policies, and the Urban Street Design Guide and Urban Bikeway Design Guide of the National Association of City Transportation Officials (NACTO);

WHEREAS, the Kenmore City Council approved the citizen-created Bicycle Strategy in 2013 and is currently assembling a committee to add a pedestrian component to the document.

WHEREAS, the active involvement of pedestrian and bicycling enthusiasts in advising municipal authorities is vital to ensure proper development of the pedestrian and bicycle environment; and

WHEREAS, promoting the safety and well-being of those who walk and bicycle is an objective of the City,

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

Section 1. The City Council adopts "Target Zero" as a goal by 2025 to have no

pedestrian or bicycle deaths or serious injuries as the result of a collision with a motorized vehicle.

Section 2. The combined citizen-created bicycle and pedestrian strategy shall be used by the City Manager, City Council, and staff to inform the City's work.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON,
AT A REGULAR MEETING THEREOF THIS 28th DAY OF APRIL, 2014.

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Patty Safrin, City Clerk



City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Kenmore Business Incubator Report and Discussion for 2015-2016 Budget Development	For Council Meeting Agenda of: 28 April 2014 Department: Executive Prepared by: Nancy Ousley Initial & Date Approved by Department Head: <u>NKO 17 APR 2014</u> Approved by City Attorney: <u>[Signature] 4/17/14</u> Approved by Finance Director: <u>[Signature] 4/17/14</u> Approved by City Manager: <u>RK/NKO 16 APR 2014</u>
Proposed Council Action/Motion: Discussion and Possible Direction	Exhibits/Attachments: 1. Staff Memo 2. February 10, 2014 Agenda Package
Expenditure Required \$0 Amount Budgeted \$238,00 for 2013-2014 Appropriation Required \$0	
<u>INFORMATION/BACKGROUND:</u> Staff is continuing the discussion with the City Council regarding the Kenmore Business Incubator and its future beyond the 2013-2014 Biennium. The Council funded the program for a two year pilot period, and the program recently marked its first year of operation. With budget development for the next biennium slated to begin later this spring, the Administration is interested in guidance from the City Council on a preferred approach to the budget.	
<u>FISCAL CONSIDERATION:</u> Program expenditures continue to trend well within the \$238,000 two year budget in the Strategic Opportunities Fund. Staff will discuss progress on our pursuit of grant funding and partnerships for future operations.	
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> 2014-2015 City Council Goal #1: To continue to implement the Economic Development Plan with an emphasis on four key points: • Promote the Image of Kenmore • Develop Downtown • Support Existing Businesses • Advance the City's Connection to the Waterfront	



City Of Kenmore, Washington

MEMORANDUM

11 April 2014

TO: Rob Karlinsey, City Manager

FR: Nancy Ousley, Assistant City Manager *NKO*

RE: Kenmore Business Incubator

In the two months since the February 10, 2014 Council briefing on the Kenmore Business Incubator and considerations for City support past the current biennium, the program has accomplished the following:

- Instituted regular networking and informal gatherings of Incubator company members
- Increased structured meetings for companies with mentors on financial, law, business plan execution and marketing
- Through our contacts with Velocity Ventures, two of the Incubator companies had the opportunity to make presentations to angel investors and other entrepreneurial experts
- Hosted a successful Open House on March 13, with over 50 attendees
- Launched a partnership with King County Library System on business seminars, job fair and other events that will continue through 2014. The March 20 Business Plan seminar was very successful, and resulted in several inquiries from potential Incubator participants. Future sessions will feature Kenmore Business Incubator volunteer mentors on topics such as marketing/branding, legal issues for businesses, and financial management.
- Worked with Bastyr University to develop a grant proposal to the Jones Foundation that would serve and support Bastyr students and alumni who are starting or operating businesses. If funded, this \$121,000 three year grant will also provide three scholarships for the Kenmore Business Incubator program, and will help support KBI operations. We should know later this spring about the status of the application.
- We are also investigating other grant opportunities from federal, state and private foundation sources.

- **Media Reports:** Thanks to our media relations consultants, the KBI and one of the companies (ConnecteDevice) was featured in a Puget Sound Business Journal (PSBJ) cover story on wearable technology in January, 2014. Business Incubator Magazine has also prepared an article on the KBI for an upcoming issue. Synch was a finalist in the PSBJ TechFlash competition, and Exato Games' Guncraft was named Indie Game of 2013 by Game Haunt.
- **Advisory Committee:** we have not officially formed an Advisory Group at this time, but have potential interests/individuals in mind to approach, depending on the Program's status beyond 2014.

Budget Update: The program through the 1st Quarter is operating within the budget.

Budget and Expenditures to Date:

2013-2014 Budget= \$238,000 (Does not include program revenue)

	2013	2014
Lease and Operations	\$ 66,000	\$ 72,000
Consulting Services	\$ 36,000	\$ 36,000
Equipment & Furniture	\$ 16,000	\$ 2,000
Miscellaneous	\$ 5,000	\$ 5,000
TOTAL	\$123,000	\$115,000

2013 Expenditures and 2014 Q 1 Expenditures

	2013	2014 Q 1	Total
Lease	\$ 35,428	\$ 9,843	\$ 45,271
Equipment & Furniture	\$ 26,641	\$ 2,816	\$ 29,457
Information Technology	\$ 5,093	\$ 620	\$ 5,713
Consulting Services	\$ 36,000	\$ 6,000	\$ 42,000
Utilities	\$ 4,076	\$ 2,014	\$ 6,090
Maintenance	\$ 5,594	\$ 990	\$ 6,584
Signage, Promotion	\$ 2,973	\$ 42	\$ 3,015
Legal	\$ 2,527	\$ 0	\$ 2,527
TOTAL	\$ 118,332	\$ 22,325	\$ 140,657

2013 Program Revenue: \$16,462

2014 Q 1 Revenue: \$ 4,150

Metrics Update:

	2013				2014			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Companies	1/1*	3/2	3/3	4/3	4/3	5/	5/	6/
Employees	5	10	13	15	15			
Mentoring sessions		2	6	19	16			
Media mentions		2	2	4	4			
Companies Graduating to Kenmore locations								
% of base rent offset**	40	56	71	85	71			

*Goal/Actual

** Base rent increases in 2014 from \$2125 to \$2550

Kenmore Business Incubator Beyond 2014:

In our February briefing we introduced the discussion of the future of the program beyond the two year pilot period. In keeping with Council guidance at that time, we have been examining grants and other funding sources that would reduced the City's financial commitment to the Incubator program. As we have mentioned previously, the National Business Incubator Association notes incubator programs typically require subsidies for at least 5-7 years from their inception.

The Administration will begin developing the proposed Biennial Budget later this quarter, and the Council's guidance on the future of the Kenmore Business Incubator will be helpful. We offer the following three options for the Council's consideration:

1. Conclude the Business Incubator program at the end of 2014. The Incubator Lease has a three year term, with the ability for the City to terminate the lease with 90 days notice after two years of occupancy.

Pro: The investment from the City can be directed to other priorities

Con: The message of the city being welcoming to entrepreneurs is weakened.

2. Continue the program in the next biennial budget, with the assumption that the program remains at its present location and therefore with the same capacity for client companies and

cost to the City. The current lease is effective through 2015. Continue to pursue grants and other sources of program support.

Pro: Continued support for new companies and building on Kenmore as a good alternative for technology and other industry jobs.

Con: The current space has limitations that make it difficult to grow the program, but other options are scarce.

3. Continue the program in the next biennium and seek additional or alternate space in order to attract additional client companies. Continue City support at a higher level unless grants or other program support can cover some costs.

Pro: There may be opportunities with downtown redevelopment to support office development and expanded services.

Con: There are other priorities for expanded City investment.

The Administration recommends Option #2 as an approach to developing the next biennial budget, assuming the Strategic Opportunity Fund can be used for two more years to subsidize the Incubator program. We also recommend that in the 2015-2016 biennium we investigate and with Council concurrence, pursue establishing a non profit organization for any long term operation of the Incubator. A number of funding opportunities are restricted to non-profit organizations.



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

Subject/Topic: Kenmore Business Incubator: Considerations for City Support in 2015- 2016 Biennium Proposed Council Action/Motion: Discussion and Possible Direction	For Council Meeting Agenda of: 10 Feb 2014 Department: Executive Prepared by: Nancy Ousley <u>Initial & Date</u> Approved by Department Head: <u>NKO 26 Jan 2014</u> Approved by City Attorney: _____ Approved by Finance Director: <u>[Signature] 1/28/14</u> Approved by City Manager: <u>[Signature]</u> Exhibits/Attachments: 1. Staff Memo 2. Pilot Program Business Plan 3. 2012-2013 Status Reports and Presentation Material			
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Expenditure Required \$</td> <td style="width: 33%;">Amount Budgeted \$238,000 in 2013-2014 Budget</td> <td style="width: 33%;">Appropriation Required \$</td> </tr> </table>		Expenditure Required \$	Amount Budgeted \$238,000 in 2013-2014 Budget	Appropriation Required \$
Expenditure Required \$	Amount Budgeted \$238,000 in 2013-2014 Budget	Appropriation Required \$		
<u>INFORMATION/BACKGROUND:</u> The Kenmore Business Incubator program began operations in February 2013 with an anchor tenant company and has completed one year of a two year pilot period. Staff has presented program updates to the Council over the past year and now begins a series of discussions to gauge the interest in continuing the program on past the two year pilot period, which will guide the preparation of the next biennial budget.				
<u>FISCAL CONSIDERATION:</u> Program expenditures for 2013 are well within the \$238,000 budgeted in the Strategic Opportunities Fund. Staff and program consultant will also discuss the prospects for external funding.				
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Continue to Implement the Economic Development Strategy				



City Of Kenmore, Washington

21 January 2014

TO: Rob Karlinsey, City Manager

FR: Nancy Ousley, Assistant City Manager *NKO*

RE: Kenmore Business Incubator

The Kenmore Business Incubator is now one year into the two year pilot period, and we are presenting considerations for a longer term program and City commitment for Council discussion. In doing so, we will discuss the experiences of this past year and a perspective from other programs in the industry. This initial discussion and subsequent sessions will help guide the Administration in preparing the proposed 2015-2016 Budget later this year.

Why did the City of Kenmore launch this program?

- Demonstrate the City's agility in seizing an opportunity with a start-up company as an anchor tenant
- Take advantage of the City's exceptional location in the midst of high tech employment centers, higher education institutions and proximity to both sides of Lake Washington
- Get recognition as a business – friendly city that values entrepreneurship
- Promote primary employers and start-up demographics
- Generate more daytime employment/office demand in downtown Kenmore to support bringing in additional food service and other businesses

Metrics Summary:

To date, we have received 25 inquiries on the Incubator program. We offer in person meetings with the Program Consultant and tours of the Incubator to interested businesses. We try to have the direct contact prior to programs submitting applications, because some conclude that this type of program is not the best fit for them or the timing is not right to join the program.

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	2013				2014			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Companies	1/1*	3/2	3/3	4/3	4/	5/	5/	6/
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Miscellaneous	\$ 5,000	\$ 5,000
TOTAL	\$123,000	\$115,000

2013 Expenditures

	Jan 1-July 5	July 6-December 31	Total
Lease	\$ 19,992	\$ 15,436	\$ 35,428
Equipment & Furniture	\$ 23,712	\$ 2,929	\$ 26,641
Information Technology	\$ 1,118	\$ 3,975	\$ 5,093
Consulting Services	\$ 15,000	\$ 21,000	\$ 36,000
Utilities	\$ 1,663	\$ 2,413	\$ 4,076
Maintenance	\$ 3,119	\$ 2,475	\$ 5,594
Signage, Promotion	\$ 2,868	\$ 105	\$ 2,973
Legal	\$ 2,527	\$ 0	\$ 2,527
TOTAL	\$ 69,999	\$ 48,333	\$118,332

2013 Program Revenue: \$16,462

What happens after 2014?

We recommend that the City continue a commitment to this program in the next biennium, subject to budget and other considerations. The National Business Incubation Association (NBIA) reports that virtually all incubator programs require subsidies, often up to 7 years. Program participant rent and fees revenues are typically not sufficient to fully support programs.

What are issues to consider in proceeding with a post-pilot program?

- **Physical Space and Location:** We were fortunate to find a workable space in a prominent location with reasonable rent for the pilot phase of the program. A longer term program that has a good prospect of being sustainable needs additional space, preferably in a downtown location. The current location has 3000 square feet. An ideal space would be between 5000-10,000 square feet. If office space is constructed in the Kenmore Village project, the City could consider committing to lease space for the Incubator. We do not know of other prospects for attractive office space in downtown that will come on line any time soon.

The current lease is three years (2013 through 2015), with the ability to terminate after two years with 90 days notice.

- **Program Sector Emphasis:** Focusing on technology start ups or other businesses that are compatible with professional office space is a reasonable direction. Lab space or commercial kitchen space is costly, and we have not detected as strong an interest or opportunity in those sectors. Bastyr students and graduates may gravitate more as service providers than developers of products, and this is a logical source of Incubator clients, certainly as part of the Natural Health Sciences Zone. We have had some interest from organizations and individuals in the fashion industry, and with adequate space there would be the opportunity to provide room for design and pattern development to that sector of businesses.
- **Additional Service Options:** Based on inquiries, we believe there is a strong interest in having co-working space in Kenmore. This is non-dedicated work or conference space that is suitable for home based businesses who want the option to work around other people from time to time or use conference space for occasional meetings. Co-working space could be incorporated into or adjacent to Incubator client space, assuming the Incubator moves to a larger space. It's assumed that co-working space businesses would not participate in mentoring or other business development services offered to the Incubator companies, but of course would be able to attend general business seminars offered in the community. Combining Incubator and co-working space could reduce the City subsidy amount, and could also provide a pipeline of potential Incubator applicants. An alternative to having co-working space in the Incubator is to work on recruiting a private operator of co-working space, such as Regus or HUB International, but those companies generally require well-appointed office space to attract users.

- **Program Governance and Operation:** according to the NBIA, in the US, 93% of business incubators operate as non-profits. Some options include:
 1. City operated program
 2. Private Non Profit Organization with or without City support
 3. University operated program
 4. Economic Development Organization operated
 5. Private sector operator (for profit)
 6. Private investment with equity position in companies (mostly for-profit model)
- **Staffing Requirements:** Current staff deployment is City lead .3-.4 FTE (.8 FTE during start-up) ; Consultant 20 hr./month minimum; misc. staff .1 FTE combined; janitorial contract; IT contract. For reference, NBIA notes that many programs have core program staff of 3 FTE (assuming 15,000-25,000 square foot facility and 15-35 companies). We anticipate minor, if any, change in staff costs if the program continues at the same facility in the next biennium, though the number of companies would likely increase.
- **Funding Opportunities:** Program staff are actively investigating and pursuing private foundation and other funding for a longer term program. The Program Consultant will submit letters of intent to apply to two private foundations this spring. Staff is also exploring sponsorship opportunities as an additional, albeit smaller, funding avenue.

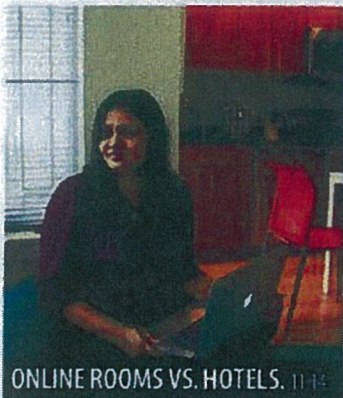
Puget Sound BUSINESS JOURNAL

January 26, 2011 | Vol. 34, No. 41 | \$3.00
pugetsoundbusinessjournal.com

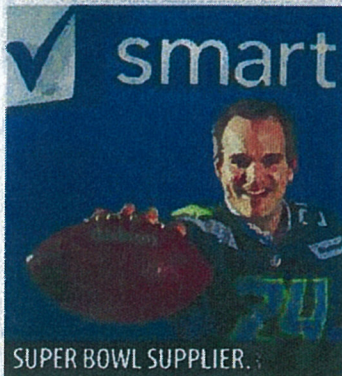
The list

FIND OUT WHICH CONVENTIONS
PACK THE MOST ECONOMIC PUNCH.

- Conventions & Trade Shows. 19-21
- Hotels. 22-23
- Banquet & Meeting Facilities. 23-24



ONLINE ROOMS VS. HOTELS. 11-14



SUPER BOWL SUPPLIER.

GRUNDTZ
Pitts staff
graphic
designer
Michael
Mentzer
reveals on
page 40
from local
companies.

VUEVO CAMERA
Record your life
— or marketplace —
with this ultracompact.

SENSORIA FITNESS SOCKS
Sensor fabric and an app turn
them into a virtual coach.

SENSORIA FITNESS T-SHIRT
This \$59 shirt from a Redmond
company monitors your heart rate.
There's a smart sports bra, too.

COORDO SMART WATCH
It doesn't just tell time; it
pays phone calls, sends
and receives texts on your
wrist.

WEAR YOUR APP

Seattle-area companies turn
clothes into computers

PAGES 4-5.



How to create
an 18-story-tall
light display for
Seahawks fans. 7

Apprehension: T-Mobile workers fret. 6

Opportunity: Carbon fiber maker to expand. 8

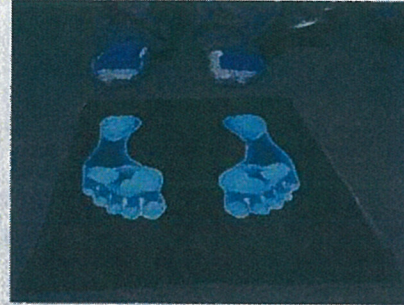
Audacity: A \$1.9M trip to the Super Bowl. 27

4 | COVER STORY

PIKET SOUND BUSINESS JOURNAL, JANUARY 24, 2014



FEET FIRST: Mario Espinoza, chief technology officer at FitSonic, demonstrates the Sensoe in SmartSock worn with "e-textile sensors" that can monitor the wearer's gait, balance and weight distribution with the help of the tablet and a mobile app that acts as a virtual coach. Plus, the socks can survive the washer and dryer.



BALANCED BUSINESS: A prototype balance board from Hearython can measure pressure points and help people with balance aches. Since it's made of fabric, it can be rolled up and taken away.



FABRIC UP: Hearython's Sensoe fabric sports bra and T-shirt, each \$59, have built-in textile electrodes that are compatible with most heart rate monitors. "We can transform any existing garment into a smart garment," says Mario Espinoza, Hearython's chief technology officer.

WEAR YOUR APP

Wearable technology on track to hit \$19B annual revenue in 2019

By BRAD BIRNBERG
CONTRIBUTING WRITER

Fitness data from your socks? Contact lenses that check your blood sugar? Smalls in your watch?

Welcome to wearable technology: clothes and accessories — even tattoos

and implants — that interact with your smartphone. This fast-growing \$14 billion-a-year industry, in which Seattle is well-represented, turns your apparel into computers.

Here's how it works: Sensors embedded in a wearable item collect information. A wireless connection such as Bluetooth

transfers the data. A smartphone application organizes it all via the cloud.

It sounds geeky, but what new breed of gadget didn't when introduced? Give wearables a little more time, and people may wonder how they lived without the added connectivity.

"It's still the first at last in the first in-

coming, but I don't think (wearable tech) is a gimmick," said Scott Jacobson, a managing director at Madrona Venture Partners in Seattle. "If you think about the time it took for almost everybody to have a smartphone... wearable tech will get to the same scale much faster."

And as with smartphones, untested

consequences are inevitable. A California court, for example, had to deal recently with a traffic citation against a driver who had been cited for wearing a Google Glass computer-in-eye device.

Despite such distractions, worldwide spending on smart wearables is expected to grow to \$19 billion in 2018, from an estimated \$1.4 billion in 2013, according to market analysis by Juniper Research of the United Kingdom.

In addition to Google, big companies such as Nike (Nike FuelBand fitness bracelet) and Samsung (Galaxy Gear smartwatch) have already rolled out their first products. Others, including Apple and Microsoft, are expected to follow.

But it's not just big companies with wearable tech products that do everything from correcting poor posture to keeping parents informed of little Johnny's whereabouts. With so much opportunity for innovation, the sector is also fertile ground for emerging companies.

The Seattle area is well-positioned to be a player, Jacobson said. Amazon and Microsoft are leaders in cloud computing, which is how wearables gain their functionality.

In addition, the Ubiquitous Computing (UbiComp) research lab at the University of Washington is pushing the envelope of sensor technology, which is how many wearables collect their data.

And startups in the region already are finding ways to monetize real-time data (such as Seattle-based SNUPI Technologies, which just got \$7.5 million in VC financing to roll out products that constantly watch such things as mold in people's homes).

It's not much of a stretch to get from tiny home sensors to the device that Google unveiled recently that uses a tiny glucose sensor and a wireless transmitter to track the blood sugar levels of peo-

ple with diabetes. What's the device? A contact lens.

Batman and Robin

ConnecteDevice, creator of the Coolioo watch, is one of several companies already bringing wearable products to market. If your smartphone was Batman, the Coolioo watch would be Robin. Driven by the Coolioo Life app, this watch lets users know what's happening on their smartphone in real time without having to see it or reach for it.

The Coolioo watch beeps or vibrates and illuminates an icon to notify users of incoming calls and emails, Facebook messages and posts, Twitter mentions and more. All it takes is a quick glance at your wrist to stay in the loop.

"The Coolioo watch lets me focus on what's important right now while still being aware of what's going on in my connected world," said Peter Hauser, chief technology officer with ConnecteDevice, a Hong Kong-based company with a research and development center in the Kenmore Business Incubator.

After launching the Coolioo watch in 2013, ConnecteDevice is introducing an upgraded version, the Cogito, in early 2014. The Cogito adds a micro-display that provides more information, such as caller ID. It also takes pictures and plays music.

Hauser declined to say how many Coolioo watches, priced at \$130 and up, the company has sold. The Cogito will sell for \$169.

While some other smart watches feature even more bells and whistles, ConnecteDevice wants its watches to be timeless "first and foremost," Hauser said. The idea is to remain fashionable, not be chunky, and to avoid the need for frequent recharg-



POWER WATCH: The Coolioo may look like an ordinary watch, but it has features such as Facebook check-in, cell notification and location tagging. Its Hong Kong-based creator has a research and development center in Kenmore.

ing while still giving users "a little bit extra," he said.

The quantified self

The realm of the quantified self — the growing trend of people collecting personal health data, tracking fitness activities and recording images of daily experiences — is a sweet spot for wearable tech.

Heapaylon is a Redmond startup that jumped feetfirst into this field with socks made from its proprietary Sensurica fabric, which is sensitive to biometric indicators. Smart sports bras and T-shirts are also about to hit the market, and a prototype shoe is in the works.

"We can transform any existing garment into a smart garment," said Mario Exposito, Heapaylon's chief technology officer.

The Sensurica sock is a pedometer on steroids. Trans-

formed through chemistry, the fabric contains textile sensors that detect the amount of pressure applied by a person's foot.

Threads conduct a signal to an ankle bracelet that transmits the data to a smartphone app. The app displays speed and distance but also lets users know if their feet are striking the ground properly so they can adjust their stride to prevent injury.

It's easy to see why the Sensurica sock might appeal to runners, but Exposito envisions a host of other applications ranging from helping golfers with balance and weight shift to monitoring blood circulation in the feet of diabetics.

Heapaylon, which doesn't disclose sales figures, recently struck a deal with British shoe company Vivobarefoot to sell its Sensurica socks alongside Vivo shoes.

A set of four socks and one ankle bracelet is priced at \$199. The sports bra and T-shirt, which are designed to capture heart and respiratory rates, are \$59 each.

Heapaylon's goal is to introduce its Sensurica technology through a few signature products and then license the technology.

"Our plan," Exposito said, "is to become a platform company that provides the technology to large-scale manufacturers, but we still have to have a few products to display the potential."

Cop-entrepreneur

Vivvo is a Seattle company that makes body-worn videocameras. Founded by

former Seattle police officer Steve Ward in 2007, Vivvo specializes in cameras for law enforcement. The company does not disclose sales figures, but Ward said Vivvo cameras are used by more than 8,100 agencies in 16 countries.

New for 2014 is Viewu2, a body-worn camera for the mans market that transmits images to a smartphone in real time for storage or sharing via email or social networks.

"You don't have to stop and download anything because it's already where you want it: in the cloud," Ward said.

One of the other advantages of the palm-size Viewu2 — price tag \$349 — is that it can be worn unobtrusively on a belt, lapel, pocket or other places that bulkier cameras, which typically are mounted on headsets, don't fit, Ward said.

Ward said the primary market for the Viewu2 is the workplace, where a video recording can protect business owners and service providers such as plumbers and electricians from false claims of misconduct, negligence or damage.

The cameras could also be worn by manufacturing employees to ensure safety compliance and by private security guards to add a moving video feed to a surveillance network.

"It's not what we build, it's why we build it," Ward said.

"We're on a mission to remove liability from people's lives."



CANDID CAMERAS: Body-worn videocameras made by Seattle-based Vivvo can be used by police officers, factory and service workers, and people who want to film their lives. Images can be transmitted in real time.

WILLIAM D. HARRIS/STREET
2014-01-24-0117

KENMORE BUSINESS INCUBATOR

November – December 2013

BUSINESS PLAN FOR PILOT PERIOD 2013-2014

Mission/Objective: Capitalize on Kenmore's location and demographics to send the signal that Kenmore is Open for Business. Provide affordable work space and business mentoring services to start up businesses. Generate energy and acknowledgment that Kenmore is a desirable location for entrepreneurs and therefore grow primary industry jobs that will in turn demonstrate demand for office/commercial space and related services.

In particular, we believe there is substantial opportunity to increase local employment in the information technology field, given the number of tech workers who currently live in Kenmore and our location close to major tech employment centers and higher education institutions.

We also want to build on the tremendous resource of Bastyr University and the potential for new businesses that are drawn to this area because they want to be close to the main campus of Bastyr. The current facility may not be ideal for Bastyr candidates, but we will work with the university by offering "virtual" incubator services and business consultation during the pilot phase, and assess the type of services and facilities that fit the Bastyr /natural health sciences related new business as we look at a longer term model.

The Pilot Period provides the chance to get an Incubator program started on a manageable scale, while evaluating the market, structure and financial commitments of a longer term program.

Please note that the City instituted the pilot program on a fast track to take advantage of an opportunity and therefore did pursue the process of preparing a detailed business plan in advance of launching the pilot program. Depending on the guidance from the Council on post-pilot program support, a detailed Business Plan for a longer term program will be prepared.

Client Focus: As with most incubators, the client focus will be on primary industry companies in their startup phase. Primary industry means companies that export products (e.g. software; natural health supplements) out of Kenmore and import jobs and money into Kenmore. appropriate for the current office

space. The initial tendency has been for technology companies to occupy the space, but other uses are welcomed. Eligibility guidelines have been developed that outline the need to have good potential for success by demonstrating a strong market for product or services, and a realistic business plan. The Eligibility Requirements are attached.

There currently is an anchor tenant in the first phase who intends to draw additional app developers into the facility. This tenant also has specific responsibilities for providing networking and marketing resources for the Incubator and its clients.

Typically, incubator companies are enrolled in programs from 1-2 years.

Organizational Structure (legal structure, governance): During the pilot period, the KBI is a City of Kenmore program. We are in the process of identifying Advisors and will convene an Advisory Group in spring 2014.

Services & Programs: In addition to weekly consultation on business plan, marketing and financial forecast with the Program Consultant, the KBI is offering consultation with mentors in the following areas:

- Financial Management/Tax Issues from CPA
- Legal: Intellectual Property and Business Law: Equinox
- Marketing: Basic Marketing and Social Media Marketing
- Branding: a Kenmore business is interested in assisting
- Preparing Presentations to Angel Investors

Experienced professionals are providing volunteer mentoring services, including some Kenmore residents and business people.

We are considering/planning to offer access to some or all of the programs to other Kenmore companies not in the incubator who are on wait list or have different facilities needs than what we can currently provide.

We are offering regular informal gathering opportunities for KBI companies, either Friday pizza, Tech Lunches and other chances for them to interact with each other. We are evaluating how much the companies use common areas such as the conference room or common "fireside " room in the current space.

Marketing, Public Relations and Client Recruitment Plan: Marketing through media, industry groups, website and social media. Frause is pitching a story on the KBI to business and technology publications. We have publicized when a company joins the Incubator and when they are recognized in competitions or publications (examples—Synch in TechFlash/PSBJ; ConnecteDevice in Walmart get to the shelf, Exato Game Studios award for best Indie game of 2013).

Open house(s): planned for March 2014

In addition to outreach to technology and natural health sciences sectors, we are currently working with Fashion Group International to establish business mentoring assistance, which could factor into non-resident offerings as described above or as KBI tenants.

We are actively working with Bastyr Director of Alumni Services and university leadership on encouraging Bastyr students, graduates and associates to apply to the Incubator.

We track the inquiries and status of contact with people who express an interest in the Incubator. To date, 25_ individuals have contacted us for information on the Incubator program.

Client Application/Selection/Graduation Process and Policies: Policies and application materials were developed in early 2013. We have recently amended policies to incorporate Digipen policy language on gaming content, and to specify in client agreement that they will make best efforts to locate in Kenmore post graduation. (this is currently in the Eligibility Requirements).

The typical sequence involves a person inquiring about the program first being directed to the City website for an overview of the program and application materials. The Program Consultant offers to meet with the person to get an idea of the stage of the business and provide additional information on the program, including a visit to the facility. The client then either completes the application or decides to wait or pass on the opportunity. We have received 3 applications to date. Some people who inquire are already in well established businesses but are interested in renting space, others take time to decide what they want to do. We follow up with them to encourage them to apply and see if they need more information before applying.

When an application comes in, we review it and ask a volunteer mentor to review it as well before we accept an application and proceed with developing

the program and sublease agreements. To date, no company/CEO that is currently in Kenmore has applied for the program, though one CEO is a former resident and another lives just outside the city limits.

The Graduation Requirements are attached, and focus on clients having achieved its go to market objectives; reached a level of financial success; exceeded the physical capacity of the Incubator; or have been involved as clients for more than two years.

Facility Requirements: There is little or no Class A office space in Kenmore, and this puts the program at a disadvantage. A downtown location is important, for visibility, access to transit and services, and for contributing to energizing the downtown.

We were fortunate to find 3,000 square feet of office space to lease at a favorable rate in a very visible downtown location, with a supportive Landlord. It has a good mix of private office space and larger rooms that accommodate work stations. The tenant improvements have been successful, but there are some down sides with the adjacencies to more industrial uses and traffic noise. Ideally we would have ADA accessible space (not the case now).

Some desirable incubator facility elements are present in the KBI space—the full kitchen is ideal. There is also a Conference room; informal gathering space; and flex small office for small meetings. We provide free WiFi for tenants and a printer/fax/scanner for a user fee. We have not added A/V equipment or land line telephone service. Clients report that they use skype for remote meetings. Other incubators do offer good conferencing equipment and conference rooms. We do offer access to City Hall meeting rooms (and the associated A/V access) to clients on the same basis as Kenmore residents and subject to the Meeting Room Policies.

We have learned that some type of on site recreation is desirable, particularly for tech tenants who want to retain their skilled staff.

We provide free parking (3 spaces adjacent to the building and parking in the Community Club lot) good transit and walk access. We have a secure building since we need to provide 24/7 access and there is no office staff on duty during business hours. We have not heard any issues from tenants, as they can arrange to let people in when they are expecting visitors. Having secure access also reduces interruptions to companies from drop in visitors or potential vendors.

We have a sign on the door that directs questions to City Hall. Secure, indoor bike storage would be ideal, but is not currently available.

Staffing: part time (20 hours per month base) consultant for client services and lining up mentors/classes for clients. There is no reception staff or regular City presence at the Incubator, other than consultation and other meetings.

Janitorial services are contracted. The City's IT consultant provides services as needed. During the program start-up, about 80% of the Assistant City Manager time was devoted to KBI—this has leveled off at about 35%; Public Works/Finance staff and City Attorney's time was concentrated during start up phase and is now combined at .1 fte or less.

Budget: \$238,000 was appropriated for the 2013-2014 Biennium. No client lease revenue was budgeted, and at this point about 85% of the base rent is offset by lease revenue.

According to NBIA sources, incubator services typically require subsidies for at least 5-7 years before they become self sufficient and/or private and non-profit sector entities replace initial public subsidies.

Post-Pilot Program: In Q1 2014 we intend to begin discussions with the Council on considerations for the program post 2014. These discussions will form the base for a longer term program business plan, which would be incorporated into recommendations for the 2015-2016 City Budget. Potential external funding sources will be identified, contacted and prioritized in the first quarter 2014, with the goal of commencing with submitting proposals in Q2.

Project Schedule and Implementation:

Council approves moving ahead with pilot program	Sept 2012
Lease executed for office space (lease commences Jan 2013)	Nov 2012
First tenant moves in	Feb 2013
Mentoring Program begins	Sept 2013

Reviews with Council

Evaluate elements for longer term program with Council Jan-Jun 2014

(business plan to be generated from these discussions)

Outreach to potential funders

Starting Q1 2014

Convene Advisory Committee

Q1 2104

Recommendation to Council on post pilot program

July 2014

Evaluation Criteria: # of companies/employees involved in program; favorable marketing/publicity about Kenmore; companies headquartered in Kenmore following graduation from the program; outside funding sources/grants obtained to support the incubator.

Considerations for Post Pilot Program to discuss with Council:

Governance Structure

Sector(s) to Market and effect on facility specs

Facility Needs and Availability

Client Mix: resident incubator clients/non resident incubator clients/ anchor tenant/ co-working space

Staffing

Budget Estimates

Potential for External Funding and relationship to program focus: foundations, government grants, equity partners, other

City Role and Investment; duration of City funding

Welcome to the Kenmore Business Incubator

It is our objective that as a client of the Kenmore Business Incubator (KBI) you will attain your goals for success. KBI will be integral to the establishment and growth of your new venture. The incubator is here to assist you. We encourage you to take advantage of the business and technical services and support afforded to the KBI incubator clients.

KBI is sponsored and managed through the City of Kenmore. Additional support is provided by a number of partner organizations that provide services and assistance to KBI clients.

The purpose of this handbook is to inform the clients and interested parties of the policies and procedures that are not delineated in the formal lease agreement. Further questions or requests for special services may be submitted to the City of Kenmore City Manager's Office at any time.

We welcome any thoughts and ideas on how KBI may better serve you.

Your success is our success!

Overview

The Kenmore Business Incubator is a pilot program launched by the City of Kenmore Washington in 2012 which offers helpful business resources for entrepreneurs to launch and /or grow their new companies. The KBI fosters a climate for entrepreneurial activity and creates an infrastructure for early stage service and product based start-ups. These new companies will grow, create jobs and maintain strong ties to the local area economy, regional business development initiatives and be aware of national trends and opportunities. During the two year pilot period, the City plans to work with partners toward establishing a long term business incubator program.

The KBI's home is a 3,000 square foot suite of offices, conference room, open working space and convenient kitchen. The City of Kenmore has created a pilot business incubator that offers the following services and activities:

February 2013

- Low cost office space convenient to transit, Burke-Gilman Trail and downtown business area
 - Provide technical business assistance to entrepreneurs and small businesses;
 - Facilitate access to the Puget Sound management professionals and academic community through corporations, educational institutions, successful entrepreneurs, and industry experts;
 - Create an entrepreneurial culture by providing continuous educational and business planning support to start and grow new companies and existing businesses in the City of Kenmore; and
 - The rental rates in the incubator are very affordable. Depending on the type of work area, monthly rental rates will range from \$150-\$350. As part of the rental rate, entrepreneurs receive the following benefits:
 - Mentors and access to networking events
 - 24/7 access and parking
 - Secure, furnished office space
 - Conference room and small meeting room
 - Options for business mailbox address and shipping drop
 - WiFi Internet connectivity, fax and printer
 - Invitations to sponsored workshops and seminars
 - kitchen / break room
 - Listing on the City of Kenmore and KBI web site

If you are interested in becoming a KBI Business, please contact the City Manager's Office for an application by calling (425) 398-8900, or download an application from the City of Kenmore's website at www.kenmorewa.gov.

February 2013

Kenmore Business Incubator (KBI) Program Client Agreement

Each applicant will agree to the following items listed below to be considered as a KBI client. In addition to agreeing to these specific items, the KBI clients will be required to follow all relevant policies and procedures as established and set out by the City of Kenmore and its KBI.

1. Be an existing micro/small business, already legally established with relevant business documentation:
 - a. Applicable business licenses/certifications
 - b. Relevant Insurance
 - c. Verification of Current Tax Return Filings (Personal or Corporate)
2. Submit a completed application.
3. Demonstrate ability to pay the on-site KBI rental fee, including one month security.
4. Agree to a background check to include financial, criminal, and references.
5. Participate in a personal interview.
6. Participate in the KBI orientation session.
7. Participate in workshops, seminars, mentoring sessions, and monthly progress review meetings.
8. Be well suited as a business to the incubator environment such as a start-up or transitioning home-based business.
9. Illustrate good potential for business advancement after a maximum of 2 years of Incubator support and in particular meet the graduation guidelines.
10. Following KBI tenure, agree to make best efforts to locate in Kenmore. Agree to be listed as a program participant/graduate.
11. Sign a Participant's Sublease Agreement

Agreed to:

Client Signature

Date

February 2013

Eligibility Requirements

In order to be eligible for consideration, an Incubator candidate should:

1. Be a new venture that is a for-profit business.
2. Have a product or service that can be commercialized within two years.
3. Be in the early stages of business development.
4. Demonstrate strong market for products or services.
5. Have potential for positive economic impact on the community through:
 - A technology, product or service deemed to have a high potential impact in the marketplace or community.
 - Potential for rapid company growth and the associated creation of new high paying jobs.
 - Positive impact on the tax base of local and state government.
6. If at all possible the company should plan to remain headquartered in Kenmore, and/or be willing to be listed as graduates/participants in the program.
7. The Founder/President/CEO/Director will be located in the incubator.
8. Have a basic business plan or a written description of the business, a market analysis, and a financial forecast.
9. Have a management team plan that demonstrates an ability to handle both the technical and managerial aspects of the business.
10. The management team is willing to seek and accept assistance from the KBI and its partners and service providers.
11. Be well-suited as a business to benefit from the KBI services, the business incubator environment, technical and business expertise.
12. Be compatible with other participants in order to maintain a productive environment for all participants.
13. Should not be in direct competition with other Incubator businesses
14. Agree to participate in the incubator's business assistance/networking programs and to cooperate in achieving the incubation program's mission.
15. Willingness to attend at least six (6) business incubation program educational seminars/workshops per year.

February 2013

Client Review and Progress

Each KBI client will have a monthly review with the KBI and mentors. This is a regular progress review. KBI will post the reviews on the monthly calendar so that the date of each client review is public and easily accessible.

The client will produce a brief written update and be involved with in a collaborative discussion. The report will detail overall progress with a focus on the preceding review period.

KBI Graduation Requirements

Prior to graduation, each KBI client needs to show that it has completed a comprehensive business plan. In addition, the client will have worked with an assigned mentor who provides the KBI with a positive assessment of the progress made by the clients and that the new venture has launched and has met its go-to-market objectives OR the client has sufficiently achieved its planning goals to implement go-to-market strategies.

More specifically, the client may graduate from the incubator when one or more of the following achievements have been met.

The new venture has launched and reaches annual sales of \$1 million.

The company may have been acquired by a more established firm and can continue to foster its growth.

The startup receives a successful public or private stock offering of more than \$250,000.

The new firm exceeds the capacity of the KBI.

The company is a client for more than two years.

Kenmore Business Incubator (KBI)

Rate Schedule

- One desk space with 24 hour access - \$150 per month
- Separate Office (depending on space)-- \$250/\$300/\$350 per month
- Security Deposit--\$250 or the equivalent of one month's rent, whichever is greater

February 2013

CITY OF KENMORE BUSINESS INCUBATOR PROGRAM APPLICATION

BUSINESS SUMMARY

The following questions are intended to provide a summary of your business. These questions should be answered and submitted to the City of Kenmore Business Incubator Program as part of the application as a tenant.

Please Note: The business information that you submit in response to this application will constitute a public record under the Public Records Act. Public records are subject to disclosure, unless an exemption under the Act applies. Please respond by submitting information that you would publicly disclose about your business/company. Please do not disclose information you consider to be confidential or proprietary.

1. WHAT WE DO

Provide a description of the business, including the range of products and/or services offered. Describe the significant problem that your business solves for its customers in the market place.

2. HOW WE DO IT – WHAT MAKES US UNIQUE

Describe the key factors that differentiate your business. How will you gain, sustain and grow a market position? What is your “unfair competitive advantage” that your competitors can not duplicate?

3. WHO ARE OUR CUSTOMERS AND PARTNERS

Describe the market, the purchase decision makers in the market, the sales and distribution channel(s), and the sales cycle. Insure that the information is specific to *your* business opportunity vs. a generalization of the industry.

4. HOW WE MAKE MONEY

Describe the revenue model for the business. Provide details of the primary revenue source and include others if needed.

5. HOW LARGE IS THE MARKET OPPORTUNITY

What is the size of the specific market and how much can you expect to capture annually over the first THREE (3) years of operation. Please provide data annually.

6. WHAT ARE THE COMPETING SOLUTIONS

Describe the alternative products and suppliers that offer your customers a solution. Describe how your solution is superior to the competition.

7. WHEN WE EXPECT TO BE SUCCESSFUL and PROFITABLE

Describe the major milestones and challenges for developing the business.

8. WHO WE ARE

Describe the principle participants in the business and the positions that need to be filled. What specific strengths and resources does your team bring to the opportunity? What makes you, as individuals, unique?

9. What services or support are you interested in/how do you think the incubator will help your business?

CITY OF KENMORE BUSINESS INCUBATOR PROGRAM APPLICATION

KENMORE BUSINESS INCUBATOR GENERAL INFORMATION

Name of Business:

Principal Officer(s) and Titles:

Contact Information for Principal Officer/Person Completing this Application:

Name:

Address:

City:

State:

Zip Code:

Office Phone:

Cell Phone:

Email Address:

Date Business was established:

Form of Business (LLC, S Corp., etc):

State and/or Federal ID:

Name(s) of company personnel proposed to occupy space in the Incubator:

1. ☐ US Citizen; ☐ Work Authorization; ☐ Neither
2. ☐ US Citizen; ☐ Work Authorization; ☐ Neither
3. ☐ US Citizen; ☐ Work Authorization; ☐ Neither

Have any company personnel been convicted of a felony or been incarcerated in the past seven years?

What type of space do you need in the incubator (work station, office, desk, etc)?

Requested Move-in Date:

Please provide two (2) business/professional references:

Name:

Organization:

Phone:

Email Address:

Name:

Organization:

Phone:

Email Address:

Return Application To: Nancy Ousley, City of Kenmore, 18120 68th Avenue NE, Kenmore, WA 98028

**KENMORE BUSINESS INCUBATOR
FACILITY USE POLICIES AND INFORMATION**

MARCH 2013

Note: These policies are subject to specific terms and provisions of Participant Sub Lease Agreement. The policies may be updated by the City as necessary during the Incubator pilot period. Participants shall provide a copy of these policies to each employee.

Access to the premises is available 24/7 via secure keypad. Each employee will be assigned an access code. This code should be kept confidential to each individual. The City will provide a "do not duplicate" hard key to each company CEO/director, but the hard key should not be used to enter the building unless the keypad is not functioning. Please advise the City of any personnel changes in your company so access codes can be updated.

No reception or public entry is available at the Kenmore Business Incubator (KBI). If you are expecting a visitor, please have them call your mobile phone when they arrive, and you should meet them at the door.

The facility is accessible by stairs, so is not ADA accessible.

Free parking is available to participants: 3 spaces on the property are assigned to KBI and are signed as reserved for the City of Kenmore; participants or their visitors should not park in other spaces on the property. In addition, 10-15 spaces are available in the Kenmore Community Club parking lot across 73rd Ave NE from KBI. Parking is available in the Community Club lot Monday through Thursday day and evening and Friday until 6 PM. (final arrangements in progress) Please place a provided KBI parking pass on your dash if you are parking in the Community Club lot. The City will make reasonable efforts to advise participants if the Community Club spaces are not available due to a scheduled event at the Community Club (provided the Community Club provides notice to the City). On-street parking is also available.

Free Wi Fi is available to participants: each company will have a password to the network

Printer/fax/copier/scanner—each company will have a user code and will be billed monthly for use. Participants need to provide paper for their copier/printer use. For printer/copier service issues, please call City Hall at 425.398.8900 and ask for Teresa McAllister or email her at tmcallister@kenmorewa.gov. Alternate contacts are Nicole Walsh, Brian Randall or Jennifer Gordon if Teresa is not available.

Conference Room and Small Meeting Room at KBI is available with sign up schedule.

City staff/consultant/janitorial staff will be at the facility on a frequent/regular basis

Participant CEO/company head/director is responsible for the actions of company personnel at the facility

Locked storage or individual offices may be available on request. The City and Landlord will also have keys to the spaces. Janitorial staff will need to have access to office spaces as well. There will be a replacement fee for lost keys. The City reserves the right to institute an additional fee for locked storage compartments.

Companies may schedule events/meetings at the space; the City must be notified of any planned events at least one week in advance, and the planned event is subject to City approval, particularly if other participants may be affected by the event. If the City schedules an event in the space, the City will make best efforts advise participants one week in advance and the City will seek to minimize any disruptions to participants.

Local Mail Service Options will be available to participants at their own cost. There is no mail delivery at the KBI.

Kitchen/Break Room: Aside from reasonable janitorial services, participants are responsible for cleaning up dishes, etc. after using the kitchen. Janitorial service is provided three times a week. See the Sublease Agreement for further details on facility maintenance responsibilities.

KBI participants will have access to reserving the Community Meeting Room at Kenmore City Hall at the Kenmore resident rate, subject to availability and room rental policies.

Furniture and Flooring: please do not slide furniture across the floor if you are moving it—pick it up. The wood floor will be scratched if you slide furniture on it, which may result in forfeit of your security deposit.

Service animals are the only animals allowed in the Incubator facility

No smoking, alcohol use, illegal drug use or illegal activities are allowed in the space

Please do not use candles or any other open flame in the KBI space

No additional signs on or around the premises or modifications to the space are allowed without the City's prior approval

QUESTIONS OR FACILITY CONCERNS DURING BUSINESS HOURS? Call City Hall at 425.398.8900 and ask for Nancy Ousley nousley@kenmorewa.gov Alternate contact is Jennifer Gordon.

FOR FACILITY IMMEDIATE ISSUES AFTER BUSINESS HOURS (EMERGENCIES): Call 206.296.8100

ATTACHMENT 3

KENMORE BUSINESS INCUBATOR REPORTS TO COUNCIL

DECEMBER 2013

(INCLUDING PRESENTATION TO SOUND CITIES ASSOCIATION)

JULY 2013

APRIL 2013

SEPTEMBER 2012



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

Subject/Topic: Progress Report: Economic Development Strategy Implementation Proposed Council Action/Motion: Presentation and Discussion	For Council Meeting Agenda of: 9 December 2013 Department: Executive Prepared by: Nancy Ousley <u>Initial & Date</u> Approved by Department Head: _____ Approved by City Attorney: _____ Approved by Finance Director: <i>June 11/25/13</i> Approved by City Manager: <i>[Signature]</i> Exhibits/Attachments: 1. Staff Memo 2. June 18, 2012 Agenda Package			
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Expenditure Required \$n/a</td> <td style="width: 33%; text-align: center;"> Amount Budgeted \$144,900 2013-2014 General Fund; \$238,000 2013-2014 Strategic Opportunities Fund </td> <td style="width: 33%; text-align: right;">Appropriation Required \$0</td> </tr> </table>		Expenditure Required \$n/a	Amount Budgeted \$144,900 2013-2014 General Fund; \$238,000 2013-2014 Strategic Opportunities Fund	Appropriation Required \$0
Expenditure Required \$n/a	Amount Budgeted \$144,900 2013-2014 General Fund; \$238,000 2013-2014 Strategic Opportunities Fund	Appropriation Required \$0		
<u>INFORMATION/BACKGROUND:</u> Staff will report on activities undertaken in late 2012 and in 2013 to implement the Economic Development Strategy, which was adopted by the Council in 2009. Included in the report will be a focused discussion on the Kenmore Business Incubator pilot project.				
<u>FISCAL CONSIDERATION:</u> The City's Economic Development budget reflects an investment that is in keeping with the Council's #1 priority to implement the actions outlined in the 2009 Plan. The 2011-2012 Biennial Budget devoted a total of \$29,800 for Economic Development.				
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Continue to Implement the Economic Development Plan				



City Of Kenmore, Washington

November 25, 2013

TO: Rob Karlinsey, City Manager
FR: Nancy Ousley, Assistant City Manager
RE: Economic Development Strategy Implementation: Progress Report

The 2009 Economic Development Strategy outlined a five-year action plan, and our most recent full report to the Council was in June of 2012. This current report comes near the mid-point of the 2013-2014 Biennial Budget and it should be noted that the Council substantially increased the investment in Economic Development in the current budget. This is fitting since the Council #1 priority for 2013-2014 is Continue to Implement the Economic Development Plan.

The 2013-2014 Budget for Economic Development is \$144,900 in the General Fund, along with \$238,000 for the Pilot Business Incubator Program in the Strategic Opportunities Fund, for a total investment of \$382,900. In contrast, the 2011-2012 Biennial Budget, which was developed during the Great Recession, allocated \$24,800 to Economic Development.

The City Administration is proceeding with coherent leadership to improve the economic vitality of the City. We look forward to discussing the progress with the Council on December 9.

Priority Actions and Progress to Date:

The actions are arranged by the four major headings in the Economic Development Strategy and an additional section on the Kenmore Business Incubator.

Marketing and Promoting the Image of Kenmore:

Building from the foundation of identifying key messages in 2012, the City has embarked on a strategic media relations program with Frause Full Spectrum Communications. In addition to producing a media kit outlining demographics and priority initiatives of the City, our message has gotten out to a wider audience, particularly in regional business publications. The Wayfinding and Banner program continues to be implemented, and the design themes from that project are reflected in the media kit pieces.

The City website upgrade will debut in 2014, with user-friendly enhancements and a new look. We have connected on social media.

The City is taking opportunities to tell our Economic Development Story -- one example is the recent presentation and tour provided to elected officials from across the US who attended the National League of Cities annual conference.

November 25, 2013 Progress Report
Page 2

Stepping up on streetscape and park appearance also promotes Kenmore's image, and thanks to volunteer efforts, there is much progress to report. The recent Beautification Awards engages and recognizes local businesses and residents for doing their part to make their City more attractive.

Support Existing Businesses and Pursue Opportunities to Expand Employment:

The Council approved an Ordinance establishing a local Business Registration Program in 2013; this is a major step forward in connecting with local businesses and in turn informing the community of the opportunities to do business with their neighbors, as we will establish a Business Directory for businesses who are interested in being listed.

The Kenmore Business Alliance was formed this past year, a subcommittee of the Greater Bothell Chamber. The group is providing a vital connection and checking point to the local business community, even in its early stages. Recognizing Small Businesses in King County, we were proud that Kenmore Camera was named a finalist in the King County Executive Small Business Awards in late 2012. Their new expanded store will open soon in the heart of downtown Kenmore. The Planning Commission and City staff are working through the Regional Business Zone review, with the goal of increasing capacity for job growth in compatible areas.

Economic Gardening, providing helpful information for local businesses, began in a development stage in 2013 and will be launched after the City's new website is complete.

Our interest in pursuing business expansion in the natural health sciences area is strong, with Bastyr University as our largest employer. In partnership with the Economic Development Council of Seattle-King County (EDC) and Bastyr, we are executing the business plan that was developed for the Washington State Innovation Partnership Zone proposal in 2013. See page 6 of the attached EDC's "2014 Proposed Organization and Business Development Initiatives" report.

The City's Development Services process and streamlined development regulations continue to receive high marks for customer service and promoting a business-friendly approach for potential investors in the community. Worth noting is the Lean project recently undertaken by the City's Development Services Department, identifying numerous ways to further streamline and already well-performing permit processing operation.

The City continues to sponsor Business After Hours events and free educational seminars to local businesses.

Downtown Development:

Marketing the City-owned parcels in Kenmore Village was a major undertaking in 2012-2013. The strong response and number of credible offers for the two properties is a testament to the strengths of Kenmore as an exceptional development opportunity. We are now poised for substantial new residential and commercial development in downtown. The State Capital Budget has provided funding for the Town Green at Kenmore Village. The City also acquired a strategic parcel at 67th Avenue NE and SR 522 that is an important gateway to the Kenmore Village commercial area.

November 25, 2013 Progress Report
Page 3

The streetscape improvements on NE 181st, such as banners and seasonal lighting on street trees, help define this area as a walkable and attractive business hub. This will continue to be enhanced as more development occurs. The recently installed "Support Local Business" banners were the brainchild of the KBA and add a strong message for our downtown.

Advancing the Community's connection to the waterfront:

This tremendous asset is getting more attention this year than it has perhaps since Cityhood. The City's work with Ecology and other agencies provided current data on the condition of lake sediments not only in the Kenmore Navigation Channel and other areas near the Lakepointe property, but at public access points such as Log Boom Park and the WA Department of Fish and Wildlife Boat Launch. The City is working closely with Kenmore Air, Northlake Marina and other water-dependent businesses on operational issues caused by sediment buildup, and continues to work actively at the federal level to get maintenance dredging of the Channel included in the US Army Corps of Engineers work program and budget.

The Administration has set the goal of seeing Lakepointe redevelopment proceed in the next few years and we are encouraged by the progress on this front, now that the economic conditions have improved.

Water-based recreation came to Log Boom Park this summer with businesses operating stand up paddleboard and kayak rentals and the new "sky boarding" phenomenon. The City is proceeding with plans to install floats at Log Boom pier and at Rhododendron Park for hand carried boat access (state/federal permit dependent). Other infrastructure improvements on the drawing board include a boardwalk and boat shed at Rhododendron Park and improvements to the WA Department of Fish and Wildlife Boat Launch, which the City is aiding by funding new restrooms.

The community is embracing this march to the lake and Sammamish River with proposed youth kayak programs and other activities that would be sponsored by local nonprofits. Amberly Gaul Culley's tremendous event celebrating the heritage of boat races on the Sammamish River has ignited interest and excitement from a variety of organizations around Puget Sound, and promises to be an annual attraction.

We are underscoring the excitement about new waterfront activities through our work with Frause to get stories in the media about these recreational opportunities.

Kenmore Business Incubator:

Though this project was not specifically mentioned in the 2009 Strategy, it is an important initiative in promoting new business development, marketing the City's image, and reaching out to existing businesses. We have seen media coverage on the companies and Incubator at the national and regional level, and through our media relations strategy, we are generating additional coverage—all of this introduces and reinforces the idea of Kenmore as a hub for innovation and startup companies.

18120 68th Ave NE · PO Box 82607 · Kenmore, WA 98028
Office: (425) 398-8900 · Fax: (425) 481-3236 · cityhall@kenmorewa.gov
www.kenmorewa.gov

November 25, 2013 Progress Report
Page 4

There are currently three high tech businesses operating at the Incubator with a current census of 15 employees. Our Program Consultant Barry Weisband meets regularly with the businesses on business development issues and we have a roster of volunteer mentors who are providing their expertise in accounting, legal, and marketing to the companies. Volunteer mentors are also assisting with application review and program development.

As of November 8, 2013, the Incubator project had expenditures totaling \$98,265 in 2013, so is on track to come in under the 2013 budget of \$123,000. So far, lease revenue has offset those costs by nearly \$12,000 as of November 8, 2013. At the December 9 briefing, we will provide updated budget information along with available data on the metrics that were identified in our July 2013 report to the Council.

In first quarter of 2014 staff will begin discussing considerations for a longer term program with the Council, in preparation for budget discussions for the 2015-2016 biennium.

ECONOMIC DEVELOPMENT STRATEGY PROGRESS REPORT

December 9, 2013



Kenmore Business Incubator

- Building an entrepreneurial community
- Three companies currently in the Incubator
- 15 employees total
- Regular consultations on business plan formation and execution; marketing; financial projections





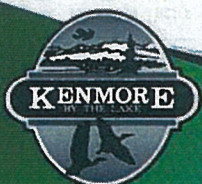
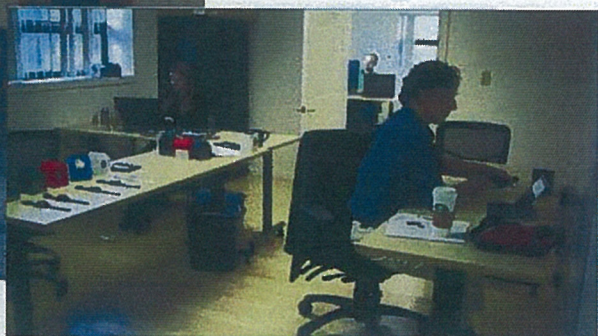
CONNECTED**DEVICE** LTD



Accelerated Start Up to Seize Opportunity

- Seven months from first internal discussion to Open for Business
- September 2012 Council OK's 2 year pilot
- November 2012 Council Approves Lease & Consultant Contract
- November 2012 2013-2014 Budget Adopted
- January 2013 Tenant Improvements Done
- February 2013 ConnecteDevice Signs Lease and Moves In





Business Services

- Regular consultations on business plan formation and execution; marketing; financial projections
- Experienced mentors: legal; marketing; branding; accounting; management; making pitches to angel investors
- Informal networking among entrepreneurs
- Connections to other networking opportunities



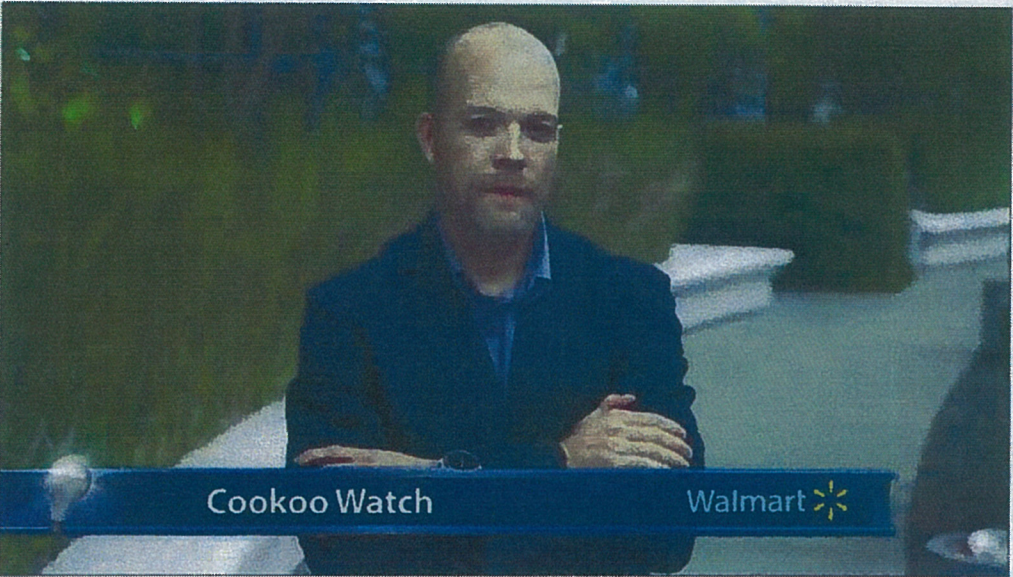
Positive Messages

- Cookoo Watch on WalMart Video
- TechFlash Competition in Puget Sound Business Journal for Synch
- Mentors and Advisors Engaged
- Sound Cities Association Presentation
- Media Relations Interest

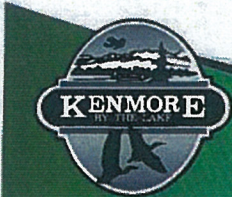
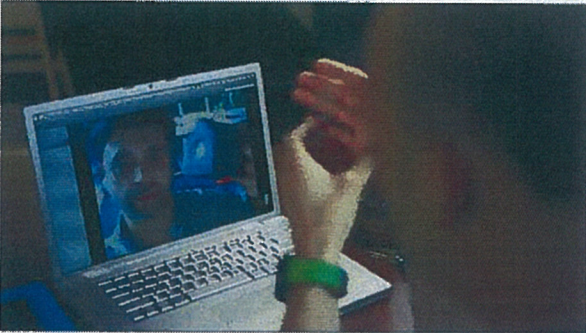


Walmart Get on the Shelf

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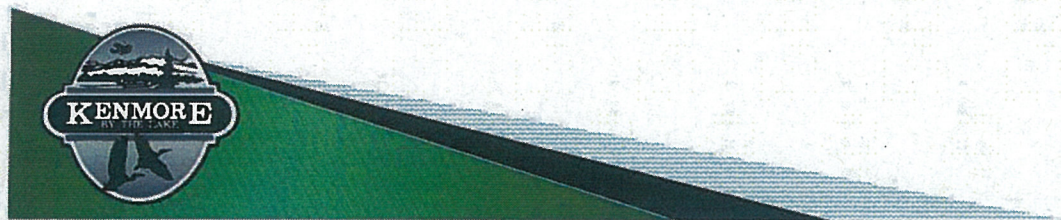
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Measures Summary

	2013				2014			
	Q1 March	Q2 June	Q3 Sept	Q4 Dec (to Dec 6)	Q1 March	Q2 June	Q3 Sept	Q4 Dec
companies	1/1	3/2	3/3	4/3	4/	5/	5/	6/
employees	5	10	13	15				
mentoring sessions		2	6	17				
% of base rent offset	40	56	71	85				

Companies enrolled: goal/actual
 Note: Base rent increases in 2014

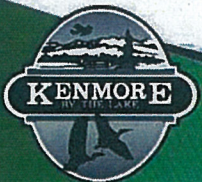


2013-2014 Project Budget

\$238,000

	2013	2014
Lease & Operations	\$ 66,000	\$ 72,000
Consulting Services	\$ 36,000	\$ 36,000
Equipment & Furniture	\$ 16,000	\$ 2,000
Misc.	\$ 5,000	\$ 5,000
TOTAL	\$123,000	\$115,000

Does not include program revenue



2013 Expenditures to Dec 5 2013

	Jan 1-July 5	July 6-Dec 5	Total
Lease	\$19,992	\$12,155	\$32,147
Furniture & Equipment	\$23,712	\$ 2,336	\$26,048
Information Technology	\$ 1,118	\$ 3,630	\$ 4,748
Consulting Services	\$15,000	\$15,000	\$30,000
Utilities	\$ 1,663	\$ 1,640	\$ 3,003
Maintenance	\$ 3,119	\$ 1,485	\$ 4,604
Signage, Promotion, Printing	\$ 2,868	\$ 105	\$ 2,973
Legal	\$ 2,527	\$ 0	\$ 2,527
TOTAL	\$69,999	\$36,351	\$106,350



2013 Revenue

- Revenue to December 5= \$13,062
- Note that Base Rent increases in 2014 from \$2125 to \$2550



Next Steps

- Continue services and recruiting
- Open House 1st Quarter 2014
- Business Plan Review
- Assess Grants and Funding Opportunities
- Discussions with Council regarding considerations for longer term program, beginning in February 2014





City of
Kenmore

**KENMORE
BUSINESS
INCUBATOR**



KENMORE BUSINESS INCUBATOR

Mayor David Baker Nancy Ousley Barry Weisband

SOUND CITIES ASSOCIATION
DECEMBER 2013



City of
Kenmore





City of
Kenmore

Kenmore Facts

- ▶ Population: 21,020
- ▶ Council/Manager Form of Government
- ▶ Incorporated 1998
- ▶ Full Time Employees: 29
- ▶ Special Districts/ Contract Services
- ▶ 2013–2014 Budget: \$47,46,310
- ▶ Average Household Income: \$94,000
- ▶ Education: 47% have 4–year degree
- ▶ Largest Employer: Bastyr University



City of
Kenmore

Economic Development Strategy

- ▶ Promote Kenmore's Image
- ▶ Support existing businesses and pursue opportunities to expand employment
- ▶ Create a vibrant, multi-use downtown
- ▶ Connect the community to the water



City of
Kenmore

Why Take the Lead

- ▶ Grow local business
- ▶ Take advantage of location and demographics
- ▶ Build entrepreneurial community and spirit
- ▶ Generate demand for new office development
- ▶ Reinforce the message that Kenmore is open for business



City of
Kenmore

The Landscape

- ▶ Incubators
- ▶ Accelerators
- ▶ Co-working space
- ▶ Virtual incubators



City of
Kenmore

Incubator Key Features

- ▶ Low cost work space
- ▶ Assistance with business plan formation and execution
- ▶ Experienced business mentoring: Legal, Accounting, Marketing, Presenting to Angel Investors
- ▶ Opportunity to interact and learn from other startups
- ▶ Graduation criteria



City of
Kenmore

Incubators Come in Different Flavors

- ▶ Geared to different sectors

Governance Structures:

- ▶ Nonprofit
- ▶ For Profit
- ▶ University Related
- ▶ Government Sponsored
- ▶ Venture/Angel Governed
- ▶ Combinations



City of
Kenmore

Kenmore Pilot Incubator

- ▶ Seizing an opportunity
- ▶ Accelerated schedule: 7 months from first discussion to occupancy

September 2012

City Council ok's 2-year pilot lease, Consultant contract approved

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2013-2014 budget adopted

January 2013

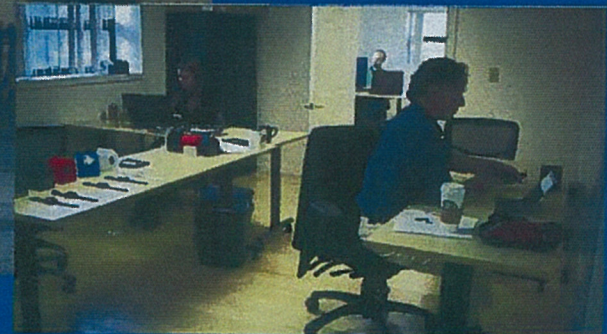
Tenant improvements done

February 2013

ConnecteDevice signs lease and moves in



City of
Kenmore





City of
Kenmore

Current Companies

CONNECTED**D**EVICE LTD



EMATO GAME STUDIOS

► 15-17 TECH EMPLOYEES THAT HAD NOT
WORKED IN KENMORE PREVIOUSLY



City of
Kenmore

Client Responsibilities

- ▶ Business Plan
- ▶ Good potential for growth
- ▶ Regular check-ins with consultant
- ▶ Mentoring participation
- ▶ Best efforts to locate in Kenmore after graduation
- ▶ Sign sublease

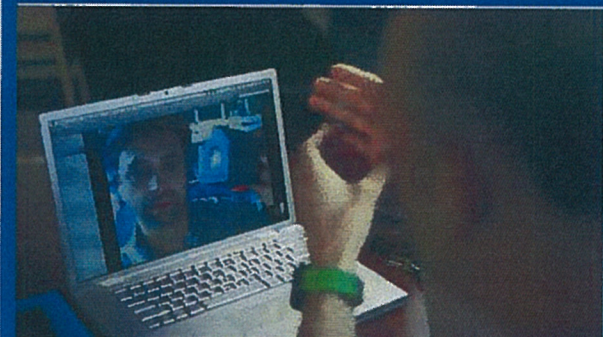
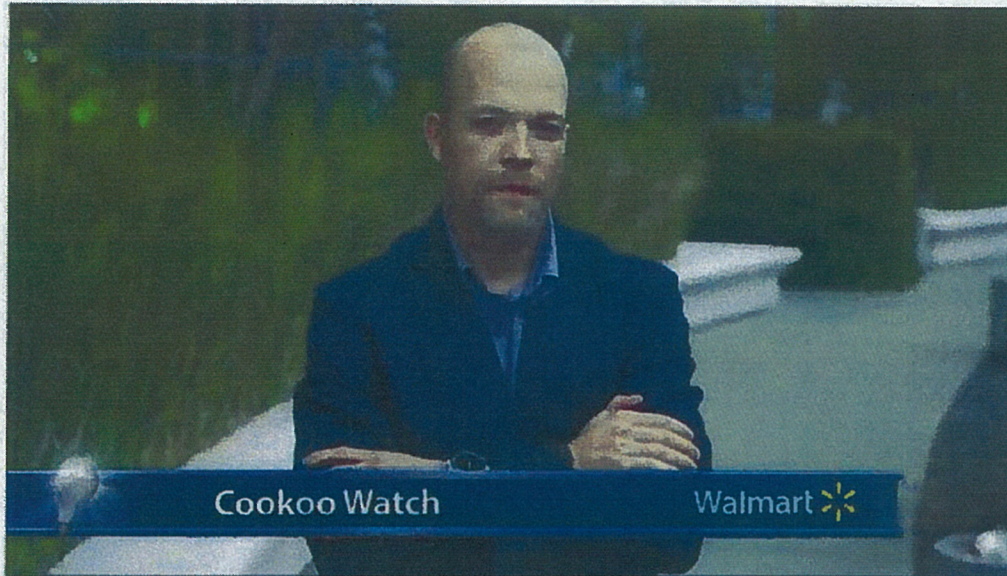


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City of
Kenmore

2013-2014 Project Budget

\$238, 000

	2013	2014
LEASE & OPERATIONS	\$66,000	\$72,000
CONSULTANT	\$36,000	\$36,000
EQUIPMENT AND FURNITURE	\$16,000	\$ 2,000
MISC.	\$ 5,000	\$ 5,000
TOTAL	\$123,000	\$115,000

Does not include program revenue



City of
Kenmore

Facility, Staffing Considerations

- ▶ Location can contribute to downtown redevelopment
- ▶ Right size
- ▶ Accommodate 24/7 operation
- ▶ Facility features that match the sector
- ▶ Parking, transit access, bike storage
- ▶ Staffing Scenarios: Program Manager, Business/Mentor Expert, Facility Management, Reception



City of
Kenmore

Lessons Learned

- ▶ Be flexible in choosing program metrics
- ▶ Positive publicity and engagement of business mentors/volunteers
- ▶ Incubator subsidization is typically needed for several years
- ▶ Assessing the needs and feasibility for a longer term effort



City of
Kenmore

Resources

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www.nbia.org

City of Kenmore

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Mayor David Baker

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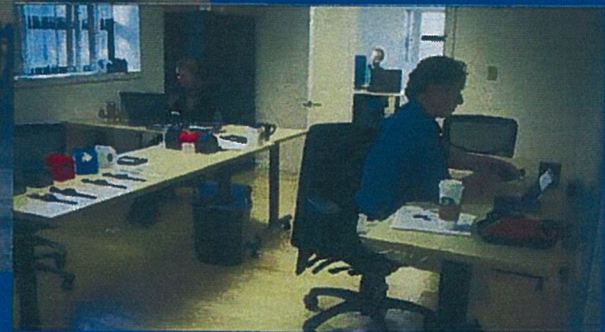
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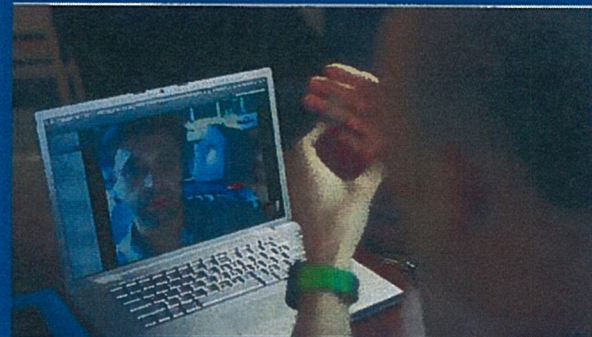
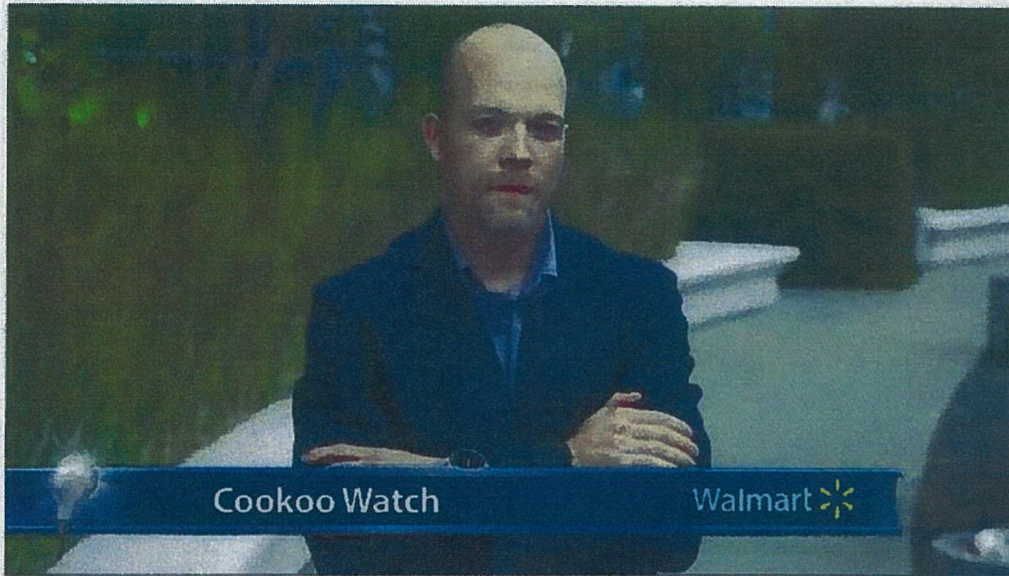


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Mayor David Baker

Assistant City Manager Nancy Ousley



City Of Kenmore, Washington

July 9, 2013

MEMO

TO: Mayor & City Council
Rob Karlinsey, City Manager

FR: Nancy Ousley, Assistant City Manager

RE: Kenmore Business Incubator Update

I am pleased to report that Exato Games Studio is the second company to join the Kenmore Business Incubator (KBI), as of June 1, 2013. Presently, ten technology employees are working in the Incubator space, and six months ago none of these individuals were working in Kenmore. The Incubator has a capacity for 12-15 dedicated workstations.

We have met with several interested companies in the last month and expect to see at least two applications. Through outreach to Bastyr, UW, Digipen, other incubator facilities and business associations, we are getting referrals and inquiries from businesses. We have also heard from a number of businesses who have noticed the prominent exterior signs on the incubator building.

The Kenmore Business Incubator pilot project had a "soft" opening February 2013 and had program elements in place to market the program and accept applications in April. Sending a clear message that Kenmore is "Open for Business" and an excellent business environment for early-stage, promising companies is a primary purpose for embarking on this pilot project. We saw the tremendous opportunities and prospects for tying into the community of technology professionals that live and/or work in the area, in addition to our proximity to higher educational institutions. The KBI offers a lower cost and convenient alternative to incubators in downtown Seattle and Eastside employment centers. We are also working closely with Bastyr University, as well as Digipen and the University of Washington, to market the Incubator to their students and alumnae.

Mentors are lined up to provide business development advice and educational sessions for participants. The KBI will launch a series of information sessions later this summer for program participants and will also continue to work with Fashion Group International members on business development, which will bring more businesses into the program.

The City has joined the National Business Incubation Association (NBIA), which is the major industry organization for incubator programs, and many of the benchmarks and best practices we have identified for the KBI track with the NBIA.

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

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

Now that the pilot incubator is up and running, we need to complete the development of a longer term business plan for the Kenmore Business Incubator, in order for the Administration to discuss options and recommendations with the Council in 2014, as the end of the two year pilot period approaches. The general outline of Kenmore's business incubator plan will be as follows:

Mission/Objective

Client Focus—what types of businesses

Organizational Structure (legal structure, governance)

Services & Programs (services for clients, identifying business assistance providers)

Marketing, Public Relations and Client Recruitment Plan

Client Application/Selection/Graduation Process and Policies

Facility Requirements

Staffing

Budget

Project Schedule and Implementation

Evaluation Criteria

Most of these items are in place, having been developed as part of the pilot program; they will be assessed and tailored to a longer term model. The business plan outline is recommended by the NBIA.

Metrics for Evaluating The Pilot Program

In our most recent report to the Council, the Council expressed interest in the metrics or benchmarks to assess the program. In evaluating the prospects for a longer term program, how will we know if the pilot program is successful and meeting the Council's expectations? The following set of measures will be incorporated in the longer term plan and will help track the KBI's progress.

Outputs:

- # of program inquiries, and how did they hear about the KBI
- # of applications
- # of companies participating
- # of employees working in participating companies
- # of business development seminars presented for participants
- # of individual consultations with participants
- # of partner mentors engaged with the program
- # of business seminars offered for general audiences
- # of participant companies graduating
- # of networking events sponsored: general and incubator-based
- # of potential long term partners contacted (institutional, public, private)

Outcomes:

- Media stories or mentions on the Incubator / Kenmore as a good place for business
- Companies locating in Kenmore post graduation from the Incubator + FTE's (note, companies agree to make best efforts to locate in Kenmore in their program agreements)

- New businesses registered in Kenmore in similar classifications as KBI companies
- Demonstrated need for additional office space in Kenmore
- Commercial/office real estate investment/development/plans (# projects and sf of remodeled or new space)
- Multipliers tied to new businesses related to KBI locating in Kenmore

KBI Budget Update

The City Council appropriated \$238,000 for the incubator project this biennium. During development of the incubator budget, the following expenditure categories were presented, with the expectation that some costs would be offset by user fees:

	2013	2014
Lease & Operations	\$66,000	\$72,000
Consultants	\$36,000	\$36,000
Equipment/Furniture	\$16,000	\$ 2,000
Misc.	\$ 5,000	\$ 5,000
Total	\$123,000	\$115,000

Program Expenditures and Revenue

From January through July 5, 2013, the incubator project expenditures were \$69,999. Most of these costs are attributed to start up costs. Major expenditure categories are as follows:

Furniture & Equipment:	\$ 23,712	(\$22,896 one-time costs; \$816 on-going costs)
Information Technology:	\$ 1,118	
Rent	\$ 19,992	
Utilities	\$ 1,663	
Signage, Printing	\$ 2,868	
Consulting Services	\$ 15,000	
Legal	\$ 2,527	
Maintenance	\$ 3,119	
Total	\$ 69,999	

2012 Expenditures totaled \$16,151 (Consulting \$10,000; Security Deposit/Rent \$4675; Legal \$1476)

Year-to-date Revenues/ user rents equal \$5601

In summary, we are pleased to report that the KBI is moving forward according to plan. The biggest challenges will be to: 1) attract outside funding and partners who can sustain the KBI beyond the City-initiated two-year pilot period 2) secure suitable space for a facility in Kenmore. More discussions and updates will develop as this project progresses.

In the meantime, the KBI is sending a clear message to the business community that we are open for business and that Kenmore is a viable and attractive place to start a new company.



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

Subject/Topic: Kenmore Business Incubator Report Proposed Council Action/Motion: Report and Discussion	For Council Meeting Agenda of: 15 April 2013 Department: Executive Prepared by: Nancy Ousley Approved by Department Head: Approved by City Attorney: Approved by Finance Director: Approved by City Manager: <u>Initial & Date</u> <u>NKO 3 APR 2013</u> <u>PRK 4/3</u> Exhibits/Attachments: Program Material			
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;">Expenditure Required \$0</td> <td style="width: 33%; border: none; text-align: center;">Amount Budgeted \$238,000 for 2013-2014</td> <td style="width: 33%; border: none; text-align: right;">Appropriation Required \$0</td> </tr> </table>		Expenditure Required \$0	Amount Budgeted \$238,000 for 2013-2014	Appropriation Required \$0
Expenditure Required \$0	Amount Budgeted \$238,000 for 2013-2014	Appropriation Required \$0		
<u>INFORMATION/BACKGROUND:</u> The Council authorized establishing a two year pilot Business Incubator Program in September 2012, and in November 2012 approved a lease contract for office space, a consultant contract and funding for the program in the 2013-2014 Budget. Staff and Program Consultant Barry Weisband will provide a status report to the Council on the Program start-up activities.				
<u>FISCAL CONSIDERATION:</u> The program expenditures to date are within budget, and sublease payments are offsetting some of the City funding. As more businesses participate, the offset amount should increase.				
<u>COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:</u> Continue to Implement the Economic Development Strategy				

Welcome to the Kenmore Business Incubator

It is our objective that as a client of the Kenmore Business Incubator (KBI) you will attain your goals for success. KBI will be integral to the establishment and growth of your new venture. The incubator is here to assist you. We encourage you to take advantage of the business and technical services and support afforded to the KBI incubator clients.

KBI is sponsored and managed through the City of Kenmore. Additional support is provided by a number of partner organizations that provide services and assistance to KBI clients.

The purpose of this handbook is to inform the clients and interested parties of the policies and procedures that are not delineated in the formal lease agreement. Further questions or requests for special services may be submitted to the City of Kenmore City Manager's Office at any time.

We welcome any thoughts and ideas on how KBI may better serve you.

Your success is our success!

Overview

The Kenmore Business Incubator is a pilot program launched by the City of Kenmore Washington in 2012 which offers helpful business resources for entrepreneurs to launch and /or grow their new companies. The KBI fosters a climate for entrepreneurial activity and creates an infrastructure for early stage service and product based start-ups. These new companies will grow, create jobs and maintain strong ties to the local area economy, regional business development initiatives and be aware of national trends and opportunities. During the two year pilot period, the City plans to work with partners toward establishing a long term business incubator program.

The KBI's home is a 3,000 square foot suite of offices, conference room, open working space and convenient kitchen. The City of Kenmore has created a pilot business incubator that offers the following services and activities:

February 2013

- Low cost office space convenient to transit, Burke-Gilman Trail and downtown business area
 - Provide technical business assistance to entrepreneurs and small businesses;
 - Facilitate access to the Puget Sound management professionals and academic community through corporations, educational institutions, successful entrepreneurs, and industry experts;
 - Create an entrepreneurial culture by providing continuous educational and business planning support to start and grow new companies and existing businesses in the City of Kenmore; and
 - The rental rates in the incubator are very affordable. Depending on the type of work area, monthly rental rates will range from \$150-\$350. As part of the rental rate, entrepreneurs receive the following benefits:
 - Mentors and access to networking events
 - 24/7 access and parking
 - Secure, furnished office space
 - Conference room and small meeting room
 - Options for business mailbox address and shipping drop
 - WiFi Internet connectivity, fax and printer
 - Invitations to sponsored workshops and seminars
 - kitchen / break room
 - Listing on the City of Kenmore and KBI web site

If you are interested in becoming a KBI Business, please contact the City Manager's Office for an application by calling (425) 398-8900, or download an application from the City of Kenmore's website at www.kenmorewa.gov.

February 2013

Kenmore Business Incubator (KBI) Program Client Agreement

Each applicant will agree to the following items listed below to be considered as a KBI client. In addition to agreeing to these specific items, the KBI clients will be required to follow all relevant policies and procedures as established and set out by the City of Kenmore and its KBI.

1. Be an existing micro/small business, already legally established with relevant business documentation:
 - a. Applicable business licenses/certifications
 - b. Relevant Insurance
 - c. Verification of Current Tax Return Filings (Personal or Corporate)
2. Submit a completed application.
3. Demonstrate ability to pay the on-site KBI rental fee, including one month security.
4. Agree to a background check to include financial, criminal, and references.
5. Participate in a personal interview.
6. Participate in the KBI orientation session.
7. Participate in workshops, seminars, mentoring sessions, and monthly progress review meetings.
8. Be well suited as a business to the incubator environment such as a start-up or transitioning home-based business.
9. Illustrate good potential for business advancement after a maximum of 2 years of Incubator support and in particular meet the graduation guidelines.
10. Sign a Participant's Sublease Agreement

Agreed to:

Client Signature

Date

February 2013

Eligibility Requirements

In order to be eligible for consideration, an Incubator candidate should:

1. Be a new venture that is a for-profit business.
2. Have a product or service that can be commercialized within two years.
3. Be in the early stages of business development.
4. Demonstrate strong market for products or services.
5. Have potential for positive economic impact on the community through:
 - A technology, product or service deemed to have a high potential impact in the marketplace or community.
 - Potential for rapid company growth and the associated creation of new high paying jobs.
 - Positive impact on the tax base of local and state government.
6. If at all possible the company should plan to remain headquartered in Kenmore, and/or be willing to be listed as graduates/participants in the program.
7. The Founder/President/CEO/Director will be located in the incubator.
8. Have a basic business plan or a written description of the business, a market analysis, and a financial forecast.
9. Have a management team plan that demonstrates an ability to handle both the technical and managerial aspects of the business.
10. The management team is willing to seek and accept assistance from the KBI and its partners and service providers.
11. Be well-suited as a business to benefit from the KBI services, the business incubator environment, technical and business expertise.
12. Be compatible with other participants in order to maintain a productive environment for all participants.
13. Should not be in direct competition with other Incubator businesses
14. Agree to participate in the incubator's business assistance/networking programs and to cooperate in achieving the incubation program's mission.
15. Willingness to attend at least six (6) business incubation program educational seminars/workshops per year.

February 2013

Client Review and Progress

Each KBI client will have a monthly review with the KBI and mentors. This is a regular progress review. KBI will post the reviews on the monthly calendar so that the date of each client review is public and easily accessible.

The client will produce a brief written update and be involved with in a collaborative discussion. The report will detail overall progress with a focus on the preceding review period.

KBI Graduation Requirements

Prior to graduation, each KBI client needs to show that it has completed a comprehensive business plan. In addition, the client will have worked with an assigned mentor who provides the KBI with a positive assessment of the progress made by the clients and that the new venture has launched and has met its go-to-market objectives OR the client has sufficiently achieved its planning goals to implement go-to-market strategies.

More specifically, the client may graduate from the incubator when one or more of the following achievements have been met.

The new venture has launched and reaches annual sales of \$1 million.

The company may have been acquired by a more established firm and can continue to foster its growth.

The startup receives a successful public or private stock offering of more than \$250,000.

The new firm exceeds the capacity of the KBI.

The company is a client for more than two years.

February 2013

KENMORE BUSINESS INCUBATOR

STATUS REPORT
KENMORE CITY COUNCIL
APRIL 2013

A Look Behind Us and to the Future

September 2012	City Council authorizes proceeding with 2 year pilot project
November 2012	Lease approved
November 2012	Consultant Contract approved
November 2012	2012-2013 Budget Adopted
January 2013	Tenant Improvements Completed
February 2013	Furniture Installed
	First Tenant Signs Lease and Takes Occupancy

WHY and HOW KENMORE IS TAKING the LEAD

- Building An Entrepreneurial Community
- Recruiting Entrepreneurial/Start Up Businesses
- Providing Start Up Advisors
- Regular Educational Programs
- Availability of Experienced Business Mentoring
- Offering Low Cost Work Space
- Assistance with Business Plan Formation and Implementation
- Oversight and Review of Business Plan Progress
- Networking Opportunities

BUILDING PUBLIC/PRIVATE PARTNERSHIPS

Velocity Ventures

Founders Institute

Bastyr University

The Quality Factory

FGI – Fashion Group International

EXPECTATIONS FOR PARTICIPANTS

BUSINESS PLAN

REGULAR CHECK-INS WITH CONSULTANT, MENTORS AND ADVISORS

SEMINAR/MENTORING PARTICIPATION

BEST EFFORTS TO LOCATE IN KENMORE POST INCUBATOR

SO FAR WE HAVE LEARNED

Opportunity to Build a Unique Dynamic Business Development Resource

A Definite Need in the Community

Need for a Kenmore Business Registration Program

Focus on entrepreneurs who need consistent start up space vs.
unscheduled walk-in space

NEXT STEPS

MARKETING THE PROGRAM

OPEN HOUSE

PROGRAM OPERATION

ASSESSING LONG TERM PROSPECTS FOR THE INCUBATOR









KENMORE BUSINESS INCUBATOR





City Of Kenmore, Washington

5 September 2012

TO: Rob Karlinsey, City Manager

FR: Nancy Ousley, Assistant City Manager

RE: Business Incubator

The September 10, 2012 City Council meeting will feature a discussion on business incubators and a potential opportunity for the City to get involved with this activity. Barry Weisband, formerly the Director of University of Washington Bothell's Entrepreneurship Center, will participate in the presentation and discussion.

Business Incubators provide: Low cost shared work space with central office services such as: high speed internet, copying, conference areas, lab space, kitchen, reception; business training, consultation and mentor assistance; and access to business and technical advice and financial resources. Sometimes incubators are centered on specific industry clusters, such as technology, medical devices, or green building development. Incubators also provide networking opportunities with other companies, and they enable entrepreneurs to focus on their core product development in the first critical years of operation.

How do they work? Some business incubators are separate non-profit organizations with a board of directors and dedicated staff. Other partnership models have the management services contracted. Prospective tenants apply and are evaluated on the strength of their business plan and have access to the work space and services for a specified period of time, for example 2 years, in order to get started. In some cases, the entrepreneur needs to get licenses for the intellectual property of a new device or application, and the incubator management can assist in this process. Businesses graduate from the incubator and make way for new members. Along the way, businesses receive training and individual consultation on business management and planning. Often, local professional firms get involved to help train or perform services such as legal or financial accounting. Some incubators have "angel" investors for the operation itself or for the individual businesses.

What are some regional examples of business incubators? Auburn, Clallam County, Ellensburg, Tacoma are examples of public partnership incubators. As part of its Innovation Partnership Zone business plan, the City of Bothell plans an incubator focused on the medical device industry and recently received \$500,000 in funding in the State Budget. Private incubators include Surf Incubator in downtown Seattle.

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What are the benefits of having a business incubator for a community? Locating a business incubator in a community can promote activity in a commercial district and attract other new businesses through informal networks, particularly if commercial rents are affordable. Helping entrepreneurs launch a business venture helps job creation. Ancillary businesses can benefit from the business activity—shipping, office supplies, restaurants to name a few. It is ideal to involve mentors and services from the community, which is a good community-building element—this provides legal, accounting and other advice that is essential to getting a new business off the ground.

Previous Discussions with Bastyr and University of Washington Bothell (UWB): In 2011 City staff, Bastyr University leadership and UWB had preliminary discussions on partnering on a business incubator that would be geared toward UWB and Bastyr students or graduates. The City's primary role in that model would have been primarily focused on the physical space for the program, either in City-owned property or subsidizing commercial lease and/or tenant improvements. We have very recently reiterated this interest with Peter Eveland, Bastyr's new Chief of Staff, who is interested in pursuing further discussions. It is our understanding that UW Bothell is focused on other commercialization programs at this time.

Proposed Pilot: We have met with the owner of a start up company that is based in Kenmore that is interested in work space that would allow for application developers to work in proximity with the company. Another startup app developer has met with staff as well. Staff recommends soliciting a limited number of potential users for the pilot phase of the program. We have also identified some commercial office space in downtown Kenmore that could initially be used for this purpose. The benefit of starting now is the potential for other entrepreneurs in the technology field to put Kenmore on their list of hospitable and affordable locations for new ventures.

The pilot requires securing space and management resources to oversee the admission/graduation process and to arrange for mentorship and assistance in business operations. In order to continue past the pilot stage, we would need to form a clear business plan that would help the chances of securing funds for a longer term program.

Estimated Budget for Proposed Business Incubator Pilot: Preliminary estimated annual budget is \$54,000-\$62,000, which would cover rent, tenant improvements, utilities, and business consulting/management. Membership fees could contribute \$6000 per year, assuming a \$100 per desk monthly fee for 5 desks. Proportionate fees for utilities would be shared among the tenants. The General Fund would be the source for the remainder of the expenses.

Council Direction: Staff will ask for direction on proceeding with a City sponsored pilot program now and spend additional time developing a partnership with Bastyr or other entities to establish a post-pilot incubator in the 2014 timeframe.

Kenmore City Council Incubator Planning Discussion

**Nancy Ousley
Barry Weisband**

September 10, 2012

Business Incubators

1. Why
2. What
3. Who
4. Where
5. How

WHY

1. Create and Launch New Ventures
2. Economic Development
3. Job Growth
4. Build Existing Business Opportunities
5. Education

WHAT

1. A Variety of Flavors
2. For Profit
3. Not For Profit
4. University Related
5. Government Sponsored
6. Venture/Angel Governed
7. Combinations

Who

1. Market
2. Funding Sources
3. Mentors
4. Sponsors

How

- Planning
- Space
- Resources
 - People
 - Financial
- Marketing
- Network

Where

- Demand
- Partners
- Financial
- Compatibility with Needs

Kenmore Business Incubator

Kenmore City Council
April 28, 2014

Follow up from February Discussion

- ▶ Incubator Locations: 47% in Urban Areas; 25% in Suburban Areas; 28% in Rural Areas
- ▶ Incubator Program Hosts/Sponsors: 32 % Academic Institutions; 25% Economic Development Organizations; 16 % Government; 4% Multiple Sponsors; 4% For Profit; 4% Other
- ▶ Program Subsidies are Typically Required for at least 5–7 years for New Programs
- ▶ Source: National Business Incubator Association www.nbia.org

1st Quarter Highlights

- ▶ Increased Program Services with Structured and Individual Sessions with Expert Mentors plus regularly scheduled informal networking
- ▶ Presentations to angel investors
- ▶ Grant Proposal with Bastyr University to Jones Foundation
- ▶ Business Plan Seminar/Partnering with KCLS, leading to program inquiries
- ▶ March 13 Open House
- ▶ Media Coverage

March Open House



Metrics Update

	2013				2014			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Total Tenants Goal/Actual	1 / 1	3 / 2	3 / 3	4 / 3	4 / 3	5 /	5 /	6 /
Employees	5	10	13	15	15			
Mentoring Sessions		2	6	19	16			
Media Mentions		2	2	4	4			
Graduates								
% of base rent offset	40	56	71	85	71			

2014 Budget Update

- ▶ 2013–2014 Budget= \$238,000
(\$123,00+\$115,00) Not Including Program Revenue

- ▶ Expenditures:

2013	2014 Q1	Total
\$118,332	\$22,325	\$140,657

- ▶ Program Revenue:

2013= \$16,462

2014 Q1=\$4150

Options for 2015–2016 Budget Development

1. Conclude the Program at the end of 2014
2. Continue the Program at same location and comparable cost; continue to pursue grant and other funding
3. Continue the Program and seek additional or alternate space; potential higher cost unless other funding is secured



City Council Business Agenda Item City of Kenmore, WA

Subject/Topic: Resolution 14-236 authorizing a grant funding application for a potential property acquisition for the Squires Landing Park expansion project to the Washington State Recreation and Conservation Office (RCO), Washington, Wildlife and Recreation Program (WWRP).

For Council Meeting Agenda of: April 28, 2014

Department: Rob Karlinsey City Manager

Prepared by: Debbie Bent, Community Development Director
And Marc Connelly, Parks Project Manager

Initial & Date

Approved by Department Head:

Approved by City Attorney:

Approved by Finance Director:

Approved by City Manager:

[Handwritten signatures and date 4-24-14]

Proposed Council Action/Motion: Motion to approve resolution 14-236

Exhibits/Attachments:

1. Resolution 14-236

Expenditure Required None to approve resolution.

Amount Budgeted: None

Appropriation Required To be determined

INFORMATION/BACKGROUND: Public involvement during development of the Comprehensive Park Recreation and Open Space (PROS) Plan included five surveys and an open house resulting in comments from over 900 residents. Improved public access to the Kenmore waterfront was a key theme in public comments. Staff is requesting Council approve resolution 14-236 authorizing an application for grant funding assistance in an amount of approximately \$332,850 (which includes half of the appraisal costs, closing costs, title report, survey) for a potential property acquisition (parcel 416410-0216) for the Squire's Landing Expansion project to the Washington State Recreation and Conservation Office (RCO) Washington Wildlife and Recreation Program (WWRP) in accordance with the City Council's goals, including increased waterfront access, identified in the Comprehensive Park, Recreation and Open Space (PROS) plan. In November of 2013 the City adopted the PROS plan which enabled the city to be eligible to apply for grants through the RCO. The RCO grant process requires approved authorization resolutions by all agencies applying for grant funding assistance as a condition for eligibility. Staff intends to apply for funding via the local parks acquisition category. If the grant application is successful staff would anticipate reimbursement for approximately half the cost of the acquisition. Grant funding would likely become available in late 2015.

For grants involving acquisition, the application process expects that negotiation is in progress, and that closing on property would occur after a grant award. In the meantime an option or a purchase and sales agreement or some similar instrument can be agreed upon in advance, but the closing date cannot occur until the grant agreement with the state is executed. For RCO grants awards that would be at least a year following grant funding application. The RCO does provide options for those property acquisitions that may need to or will close in advance of possible grant award. In this case the City formally requests in writing a "waiver of retroactivity" stating the justification for acquiring the property prior to any potential grant award. Once granted the City may complete negotiations, close on the property and allow public use. The City's project then remains eligible for two more grant cycles (every two years), if it proves unsuccessful in the first round of application.

The local parks funding category is a highly competitive grant program and the majority of applications do not make the funding cut. Funding for the program is part of the State's Capital budget and varies from year to year. According to the RCO the biennial funding for the WWRP has an average of \$55 million. The program is divided into two programs: Habitat Conservation and Outdoor Recreation. Typically appropriations are divided equally between the two programs. Within the programs are distinct categories where the appropriations are again distributed but at different proportions. The local parks category receives 30 percent of the Outdoor Recreation Program's appropriation. For example a \$55 million allocation by the legislature would result in approximately \$6.5 Million available to support local parks grant applications statewide. In the 2013-15 grant cycle 44 local parks applications were received and less than half received funding and some at reduced amounts. The grant Resolution No. 14-236 authorizing Parks Grant Funding is as follows:

Even Years (2014)

May 1	Applications Due
June/July	Technical Review
July	Technical Completion Deadline
July	RCO Biennial Budget Request to Governor
August	Project Evaluations (Presentations)
Sept/October	RCO Funding Board Approves Project List
Oct/December	Governor Approves Project List

Odd Years (2015)

Jan-May	Legislature Approves Projects
May-July	Match Certifications Due
May-July	Board Approves Funding

FISCAL CONSIDERATION: This WWRP funding category requires a 50 percent match. Successful grants are awarded funding on a reimbursement basis, which needs to be considered from a cash flow basis. The 2013-2018 Capital Improvement Program (CIP) includes project P10 park land acquisition, but an amendment to the CIP will be needed to allocate the resources for this specific acquisition. Staff recommends allocating Park Impact Fee revenue for the acquisition of this property. Park Impact Fees can only be used for park property acquisitions and park improvement projects. The City Manager is currently in negotiations with the property owner. If negotiations continue to go well, the City Manager expects bringing a purchase and sale agreement forward for City Council consideration some time in May.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED: City Council Goals 1 and 5: Advance the public's connection and access to the waterfront. Also Council Goal 11 – Implement a parks improvement and financial plan. Adopted PROS Plan Key Values, Major Issues, Opportunities, Goals/Objectives and Policy Support:

Key Values

2. Balance-providing a diversity of facilities for both passive and active recreation.

Major Issues

1. Desire for improved public access to the Kenmore Waterfront.

4. Improving and diversifying park experiences.

Opportunities

1. Create a Kenmore WaterWalk.

5. Providing and developing more land for active recreation activities.

Goal P-1

Objective P-1.1

Policy P-1.1.3 "Identify and retain important public access...to ...the Sammamish River."

Policy P-1.1.4 "Adopt...implement...master plans...connections to the waterfront and shorelines."

Objective P-1.2

Goal P-3

Objective P-3.1

Policy P-3.1.1 "Identify opportunities to provide...appropriate public access..."

Policy P-3.1.2.2 "Update, adopt, and complete ... master plan for Squire's Landing Park..."

Goal P-4

Objective P-4.1

Policy P-4.1.3 "Establish and regularly review and update a priority list ...to determine park and open space acquisition..."

Policy P-4.1.5 "Acquire lands that abut existing city ...park properties..."

**CITY OF KENMORE
WASHINGTON
RESOLUTION NO. 14-236**

**A RESOLUTION OF THE CITY COUNCIL OF KENMORE,
WASHINGTON, AUTHORIZING SUBMITTING
APPLICATION FOR GRANT FUNDING ASSISTANCE
FOR PROPERTY ACQUISITION FOR THE SQUIRE'S
LANDING PARK EXPANSION PROJECT FOR
WASHINGTON WILDLIFE AND RECREATION
PROGRAM PROJECT TO THE RECREATION AND
CONSERVATION OFFICE AS PROVIDED IN CHAPTER
79A.15 RCW, ACQUISITION OF HABITAT
CONSERVATION AND OUTDOOR RECREATION LANDS,
WAC 286 AND SUBSEQUENT LEGISLATIVE ACTION**

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

WHEREAS, under the provisions of the Washington Wildlife and Recreation Program (WWRP), state grant assistance is requested to aid in financing the cost of land acquisition; and

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

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

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

Section 2. Any grant assistance received will be used for direct costs associated with implementation of the project referenced above;

Section 3. Our organization hereby certifies that our matching share of project funding will be derived from Real Estate Excise Tax, and other funds restricted to capital projects and that we are responsible for supporting all non-cash commitments to this project should they not materialize.

Section 4. We acknowledge that the grant assistance, if approved, will be paid on a reimbursement basis, meaning we will only request payment from the Recreation and Conservation Office after eligible and allowable costs have been incurred and payment remitted to our vendors, and that the Recreation and Conservation Office will hold retainage until the project is deemed complete.

Section 5. We acknowledge that any facility developed through grant assistance from the Recreation and Conservation Funding Board must be reasonably maintained and made available to the general public at reasonable hours and times of the year according to the type of area or facility unless other restrictions have been agreed to by the Recreation and Conservation Office Director or the Recreation and Conservation Funding Board.

Section 6. We acknowledge that any facility developed with grant assistance from the Recreation and Conservation Funding Board must be dedicated for public outdoor recreation purposes, and be retained and maintained for such use for perpetuity unless otherwise provided and agreed to by our organization and the Recreation and Conservation Funding Board.

Section 7. This resolution becomes part of a formal application to the Recreation and Conservation Office for grant assistance; and

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

**PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, AT
A REGULAR MEETING THEREOF THIS 28th DAY OF APRIL 2014.**

CITY OF KENMORE

Mayor David Baker

Attest/Authenticated:

Patty Safrin, City Clerk