



City Council Meeting Schedule October 2017

October 3, 2017
Tuesday, 6:30 p.m. REGULAR COUNCIL MEETING

October 10, 2017
Tuesday, 6:30 p.m. WORKSHOP MEETING
1. Affordable Housing Update
2. Way Finding Implementation
3. Code Amendment Updates

October 17, 2017
Tuesday, 6:30 p.m. REGULAR COUNCIL MEETING

October 24, 2017
Tuesday, 6:30 p.m. WORKSHOP MEETING
1. TPA 2018 Budget & Marketing Plan
2. Workplace Safety Update
3. Transportation System Plan Update

October 31, 2017
Tuesday, 6:30 p.m. NO MEETING

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

Please be advised that all Kennewick City Council Meetings are Audio Taped

October 2017
Updated 10/3/17

Council Workshop Coversheet



Agenda Item Number	1.	Meeting Date	10/10/2017
Agenda Item Type	Presentation		
Subject	Affordable Housing Update		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	Management Services		

Info Only	☒
Policy Review	☐
Policy DevMnt	☐
Other	☐

Summary

Shela Berry, Program Specialist with Benton-Franklin Human Services Department, will provide an overview of the Affordable Housing Program as well as current uses of the 2060 (Affordable Housing for All) and 2163 (Homeless Housing and Assistance) funds.

Through

Carol Evans
Oct 04, 07:14:21 GMT-0700 2017

Dept Head Approval

Christina Palmer
Oct 05, 15:12:43 GMT-0700 2017

City Mgr Approval

Marie Mosley
Oct 05, 21:41:41 GMT-0700 2017

Attachments:

Presentation
Housing Resource Center Information Card
2017 2060 Project Status Report
2017 2163 Project Status Report

Affordable Housing

2060 & 2163 Funded Programs

Presented to Kennewick City Council

October 10, 2017

By Shela Berry, Program Specialist

Benton-Franklin Counties Dept of Human Services



The Benton Franklin Counties Department of Human Services serves as the first point of entry for families or individuals who are currently, or at risk of being homeless to help them find housing.

Direct Services include:

- Security Deposit
- Graduated Rental Assistance
- Permanent Supportive Housing Assistance
- Application Fees
- Utility Deposits & Assistance
- Case Management for Household Enrolled in Internal Programs

Funding sources include State Dept of Commerce (CDBG & CHG); HUD; and 2060 & 2163 Funds.

2060 & 2163 Funds

- Both 2060 & 2163 funds are generated through Document Recording Fees that are collected and earmarked for housing assistance.

2060 Fee: \$10

2163 Fee: \$40

Total: \$50

- Current Allocations:

2163 Homeless Housing	\$ 23.52
2060 Affordable Housing	\$ 5.70
Housing Trust Fund	\$ 3.80
State Homeless Housing Fund	\$ 15.68
County Auditor	\$ 1.30
Total:	\$ 50.00

2060 Funds

- Substitute House Bill 2060 originally became law in Washington State in June 2002. The law created a document recording surcharge of \$10 on certain locally generated documents. RCW 36.22.178
- The funds from the surcharge are shared between local governments and the State, and are to be utilized for low-income housing. Specifically, for people earning at or below 50% average area median income.

2060 Funds

- Priority must be given to eligible housing activities that serve extremely low-income households with income at or below 30% of the area median income.
- Eligible Housing Activities defined:
 - Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income households;
 - Supporting building operation and maintenance costs of housing projects or units within housing projects eligible to receive housing trust funds;
 - Rental assistance vouchers for housing units that are affordable to very low-income households;
 - Operating costs for emergency shelters and licensed overnight youth shelters;
 - May not be used to provide direct services (e.g. case management)

2060 Funds

- Local portion of 2060 funds are administered pursuant to an Interlocal Agreement between Benton County and the Cities of Kennewick, Richland, West Richland, Prosser and Benton City. (5-yr contract effective 9/15/15)
- Funding allocation recommendations are provided through a Surcharge Steering Committee. This advisory committee is comprised of:
 - One representative appointed by each of the 5 City Councils to represent the Cities
 - Director of Benton Franklin Dept of Human Services (non-voting)
 - County Administrator for Benton County or designee

2060 Funds

- On an annual basis, the Benton-Franklin Counties Dept of Human Services is required to publish a Notice of Funds Availability (NOFA).
 - Latest RFP for \$180,000 was sent in August and closed Sept 29th.
- Eligible recipients are limited to certified non-profit agencies or providers of affordable housing, Cities, Towns, the County, and for-profit developers.
- Steering Committee is responsible for reviewing applications, making funding recommendations, and ensuring that funds are distributed in a manner that provides long-term geographic equity.

2060 Funds – 2017 Projects

Project Name:	Benton Franklin Community Action Committee
Description:	Funding was to remodel a 2,290 square feet of space for a family day shelter known as "Second Chances Center (SCC). Second Chances Center will provide outreach, parenting and life skills, financial literacy, job search/resume writing, and housing search training.
Award Amount:	\$17,928.00
Status	Completed

Project Name:	Elijah Family Homes
Description:	Funding was awarded for the purpose of rehabilitating a duplex located in Pasco, WA.
Award Amount:	\$5,230.00
Status	Completed

2060 Funds – 2017 Projects

Project Name:	Kennewick Housing Authority
Description:	Funding was awarded for the addition 28 units of affordable housing to the Nueva Vista housing development located at 386 N Union Street, Kennewick. KHA also increased the percentage set aside for homeless from 20% to 50%
Award Amount:	\$150,000.00
Status	Construction estimated to begin Oct. 11 th

Project Name:	Catholic Charities Housing Services
Description:	Funding was awarded for the construction of ten (10) new three and four bedroom homes reserved for families earning 50% or less AMI at 480 North River Road, Prosser.
Award Amount:	\$210,000.00
Status	Completed

2060 Funds – 2017 Projects

Project Name:	Safe Harbor Support Center
Description:	Funding was awarded for a rehabilitation project for My Friends Place, a homeless 24 hour overnight youth shelter. Renovations include: Rewiring or replacement of all phone, cable and internet wires, purchase and installation of emergency exit signs and emergency lighting, new outlets, replaced and covered throughout the shelter, interior paint for the building, replacement of the countertops in reception and kitchen area, replacement of the furnace and other projects submitted in writing and approved by the Department of Human Services.
Award Amount:	\$18,500.00
Status	In Process

2163 Funds

- Substitute House Bill 2163 became law in Washington State in August 2005. The law created a document recording surcharge of \$10 (\$40 from 9/1/12-6/30/19) on certain locally generated documents and was intended to reduce homelessness by 50% within 10 years of creation . RCW 36.22.179
- The funds from the surcharge are shared between local governments and the State, and are to be utilized for homeless individuals or those in jeopardy of homelessness earning no more than 30% of average area median income.

2163 Funds

— Eligible Activities:

- Rental & furnishing of dwellings
- Costs of developing affordable housing and services for homeless
- Operating subsidies for housing serving homeless
- Prevention services
- Temporary services to assist persons leaving institutions and programs to prevent homelessness
- Outreach services
- Develop & manage local homeless plans
- Rental vouchers payable to landlords for homeless or those in immediate danger of becoming homeless

2163 Funds

- Program administration defined within an Interlocal Agreement between Benton County and the Cities of Kennewick, Richland, West Richland, Prosser and Benton City. (5-yr contract effective 7/18/17)
- Benton-Franklin Counties' Department of Human Services is designated as the representative of the County and as the “local government” designated in the Act for administering ESSHB 2163
- Each city is authorized to appoint two representative to the Benton Franklin Housing Continuum of Care which serves in an advisory capacity to the Benton-Franklin Counties' Department of Human Services.

2163 Fund Programs

Benton Franklin Human Services manages programs both internally and through contracted agencies

- Internally run programs include:
 - **Jail Release Housing Program**
 - 6 months of graduated subsidy for rental assistance, bus passes and case management for clients exiting the Benton County Jail
 - **Mental Health Housing Program**
 - Permanent supportive housing program for clients that are homeless and engaged in mental health services. Includes rental assistance, case management, deposit assistance, utility deposit assistance and application fees
 - **Substance Use Disorder (SUD) Housing Program**
 - graduated assistance for clients exiting treatment facilities. Includes rental assistance, case management, deposit assistance, utility deposit assistance and application fees.
 - **Disabled Housing Program**
 - Permanent supportive housing program for clients that are homeless and disabled. Includes rental assistance, case management, deposit assistance, utility deposit assistance and application fees.

2163 Fund Programs

- Contracted agencies/programs include:
 - **Benton Franklin Community Action Committee**
 - Graduated housing for homeless or facing eviction
 - Graduated housing for first time renters age 18-24 who are homeless
 - Aged, blind or disabled (DSHS designation) rental assistance for homeless or risk of becoming homeless
 - **Domestic Violence of Benton-Franklin Counties**
 - Help with costs of running DV shelter including maintenance, rent, case management and motel vouchers
 - Graduated rental subsidy to DV victims displaced by domestic violence or homeless
 - **Safe Harbor Crisis Nursery**
 - Costs of running overnight youth shelter

2163 Fund Programs

- Contracted agencies/programs (continued):
 - **Lourdes Counseling Center**
 - Graduated rental assistance to LCC that are homeless or at risk
 - **Salvation Army**
 - Graduated rental assistance for homeless or at risk
 - **Oxford House**
 - 3 months rental assistance for homeless prior to Substance Use Disorder (SUD) treatment or jail
 - **Veterans Opportunity Center**
 - Graduated rental subsidy and life skills class

2163 Funds – 2016/2017 Contract Allocations

Benton Franklin Community Action Committee	\$ 374,228.00
Domestic Violence Services of Benton-Franklin Counties	\$ 307,814.00
Safe Harbor Crisis Nursery	\$ 100,800.00
Lourdes Counseling Center	\$ 70,680.00
Salvation Army	\$ 111,901.00
Oxford House	\$ 62,292.00
Veterans Opportunity Center	\$ 55,093.00
Total:	\$ 1,082,808.00



Questions?



Housing Resource Center
7102 W Okanogan Place Suite 201
Kennewick, WA 99336
Phone: 509.737.3946

The Housing Resource Center of Benton and Franklin Counties screens households that are experiencing homeless or facing an eviction for housing programs in our community.

Please try to bring these documents:

- ⇒ Homeless Status Verification: Letter from the shelter/service provider or self-declaration
- ⇒ Eviction Notice and Lease Agreement
- ⇒ Picture ID
- ⇒ Social Security Cards
- ⇒ Proof of income for all adults in household

Screening Times:

Monday, Tuesday
and Thursday
8am – 11am & 1pm – 3pm



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Screening Times:

Monday, Tuesday
and Thursday
8am – 11am & 1pm – 3pm

Food/ Clothing/Diapers/Transportation
Second Harvest Tri-Cities Phone: 509.545.0787
Meals on Wheels Phone: 509.585.4303
Jubilee Ministry Prosser Food Bank Phone: 509.786.3033
Salvation Army Phone: 509.547.2138
Tri-Cities Diaper Bank Phone: 509.946.8807
World Relief Phone: 509.734.5477
Ben Franklin Transit Phone: 509.735.0160
Shelters
Tri-City Union Gospel Mission (check in at 1:30) 112 N 2 nd Ave, Pasco Phone: 509.547.2112
Domestic Violence Shelter Phone: 509.582.9841
My Friends Place Overnight emergency shelter for youth. 1111 Grant Pl, Kennewick Phone: 509.783.5734
CAC- Second Chance Center Day shelter for homeless families. 720 W Court St, Pasco Phone: 509.545.4042

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Benton County 2060 Steering Committee
Project Status Report
October 2017

Project Name: Benton Franklin Community Action Committee
Agreement No.: 2060-2016-CAC
Purpose: Funding was to remodel a 2,290 square feet of space for a family day shelter known as "Second Chances Center (SCC). Second Chances Center will provide outreach, parenting and life skills, financial literacy, job search/resume writing, and housing search training.
Award Amount: \$17,928.00
Amount Expended: \$17,928.00 (100%)
Status: Project is complete!

Project Name: Elijah Family Homes
Agreement No.: 2060-2016-EFH
Purpose: Funding was awarded for the purpose of rehabilitating a duplex located in Pasco, WA. Rehab includes roof repairs.
Award Amount: \$5,230.00
Amount Expended: \$5,230.00 (100%)
Status: Project is complete!

Project Name: Kennewick Housing Authority
Agreement No.: 2060-2016-KHA
Purpose: Funding was awarded for the addition 21 units of affordable housing to the Nueva Vista housing development located at 386 N Union Street, Kennewick, WA 99336.
Award Amount: \$150,000.00
Amount Expended: \$00,000.00 (0%)
Status: The city council passed and approved building a 28 unit instead of a 21 unit so we updated the contract. KHA also increase the percentage set aside for homeless from 20% to 50%. This contract has been executed and construction is estimated to start October 11th.



This is the first phase of the Nueva Vista Project. The second phase will be developed in the lot directly in the back (the dry grass lot seen in the back of the picture).

Project Name:	Catholic Charities Housing Services
Agreement No.:	2060-2016-CCHS
Purpose:	Funding was awarded for the construction of ten (10) new three and four bedroom homes (hereinafter referred to as the "Project"). The Project will provide ten (10) homes reserved for families earning 50% or less AMI at 480 North River Road, Prosser WA. The purpose of the Project is to provide homes for very low income first-time home buyers through our 523 Technical Assistance mutual self-help homeownership program.
Award Amount:	\$210,000.00

Amount Expended: \$210,000.00 (100%)
Status: This project is complete!



Project Name: Safe Harbor Support Center

Agreement No.: 2060-2017-SHCN

Purpose: Funding was awarded for a rehabilitation project for My Friends Place, a homeless 24 hour overnight youth shelter. Renovations include: Rewiring or replacement of all phone, cable and internet wires, purchase and installation of emergency exit signs and emergency lighting, new outlets, replaced and covered throughout the shelter, interior paint for the building, replacement of the countertops in reception and kitchen area, replacement of the furnace and other projects submitted in writing and approved by the Department of Human Services.

Award Amount: \$18,500.00

Amount Expended: \$992.60 (5%)

Status: Currently they purchased and installed the necessary emergency exit lights for their shelter.



BENTON AND FRANKLIN COUNTIES **DEPARTMENT OF HUMAN SERVICES**

Benton County 2017 - 2163 Project Status Report

Benton Franklin Department of Human Services manages several housing programs internally. Below is a brief description of the programs they offer:

Jail Release Housing Program: Program offers up to six months of graduated subsidy for rental assistance, bus passes and case management for client exiting the Benton County Jail.

Mental Health Housing Program: Permanent supportive housing program for clients that are homeless and engaged in mental health services. Includes rental assistance, case management, deposit assistance, utility deposit assistance and application fees.

Substance Use Disorder Housing Program: Program offers a flexible graduated subsidy model for clients that are exiting treatment facilities. Includes rental assistance, case management, deposit assistance, utility deposit assistance and application fees.

Disabled Housing Program: Permanent supportive housing program for clients that are homeless and disabled. Must be deemed disabled by the state. Includes rental assistance, case management, deposit assistance, utility deposit assistance and application fees.

Benton County is contracted with various housing agencies for a variety of housing programs to meet the needs of the community.

Benton Franklin Community Action Committee

Contract Number/Name	Contract Term	Description	Dollar Amount
2016-HHAA-CAC	1/1/2016 – 12/31/2017 2 year Contract	Up to 6 months of graduated housing subsidy for low income households that are homeless or facing an eviction.	\$221,378.00
2016-HHAA-FTRYP	9/1/2016 – 12/31/2017	Up to 9 months of graduated housing services for first time renters between the ages 18 – 24 who are homeless.	\$62,130.00
2017-HHAA-CAC-ABD	1/1/2017 – 12/31/2017	Allows up to \$200.00 per month for room rental or housing assistance payable to landlords for persons who are ABD (Aged, Blind, or Disabled – Deemed by DSHS) eligible and homeless or at risk of becoming homeless.	\$90,720.00

Domestic Violence Services of Benton and Franklin Counties

Contract Number/Name	Contract Term	Description	Dollar Amount
2016-HHAA-DVS	1/1/2016 – 12/31/2017 2 year	Shelter Operations contract in place to help with the costs of running the DV Shelter. Maintenance, rent, case management services and emergency motel vouchers.	\$201,600.00
2017-HHAA-DVS	1/1/2017 – 12/31/2017	Allows up to six months of graduated rental subsidy to domestic violence victims who are displaced due to domestic violence or homeless. This contract also allow utility assistance, emergency motel assistance and rental application assistance.	\$106,214.00

Safe Harbor Crisis Nursery

2016-HHAA-SHCN	1/1/2016 – 12/31/2017	Shelter Operations Contract in place to help with the costs of running the overnight youth shelter.	\$100,800.00
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Lourdes Counseling Center

2016-HHAA-LCC	1/1/2017 – 12/31/2017	Allows up to six months of graduated rental assistance to LCC clients that are homeless or at risk. This include app fees and security deposits	\$70,680.00
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The Salvation Army

2016-HHAA-TSA	1/1/2016 – 12/31/2017	Allows up to six months of graduated rental assistance for clients that are homeless or at risk. This includes, app fees, utility deposits and security deposits.	\$54,151.00
2017-HHAA-TSA	1/1/2017 – 12/31/2017		\$57,750.00

Oxford House Inc.

2017-HHAA-OXF	1/1/2017 – 12/31/2017	Allows up to three months of rental assistance to clients that are homeless prior to SUD treatment or Jail. Client must be accepted into an Oxford House in order to receive these services.	\$62,292.00
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Veterans Opportunity Center

2017-HHAA-CBVC	1/1/2017 – 12/31/2018	Allows for a graduated rental subsidy. Deposits, app fees and utility deposits included. This also include 12 sessions of a life skills class.	\$55,093.00
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Prepared By:

Shela Berry

Housing Program Specialist

Benton and Franklin Counties Dept. of Human Services

509-737-3919

Council Workshop Coversheet



Agenda Item Number	2.	Meeting Date	10/10/2017
Agenda Item Type	Presentation		
Subject	Wayfinding		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	Employee & Community Relations		

Info Only	☒
Policy Review	☐
Policy DevMnt	☐
Other	☐

Summary

Visit Tri-Cities facilitated a contract for wayfinding through the Tri-Cities Rivershore Enhancement Council which ties the four cities and ports together in a cohesive manner for ease in visitor identification of cities and landmarks. The design is at 90% complete and staff will present next steps to Council.

Through

Terry Walsh
Oct 04, 10:27:37 GMT-0700 2017

Attachments: WAYFINDING PRESENTATION

Dept Head Approval

Terry Walsh
Oct 04, 10:27:40 GMT-0700 2017

City Mgr Approval

Marie Mosley
Oct 06, 07:42:25 GMT-0700 2017

TRI-CITIES OF WASHINGTON REGIONAL WAYFINDING PROGRAM

A Partnership On Wayfinding

Kennewick
Pasco Richland
West Richland



STRATEGY

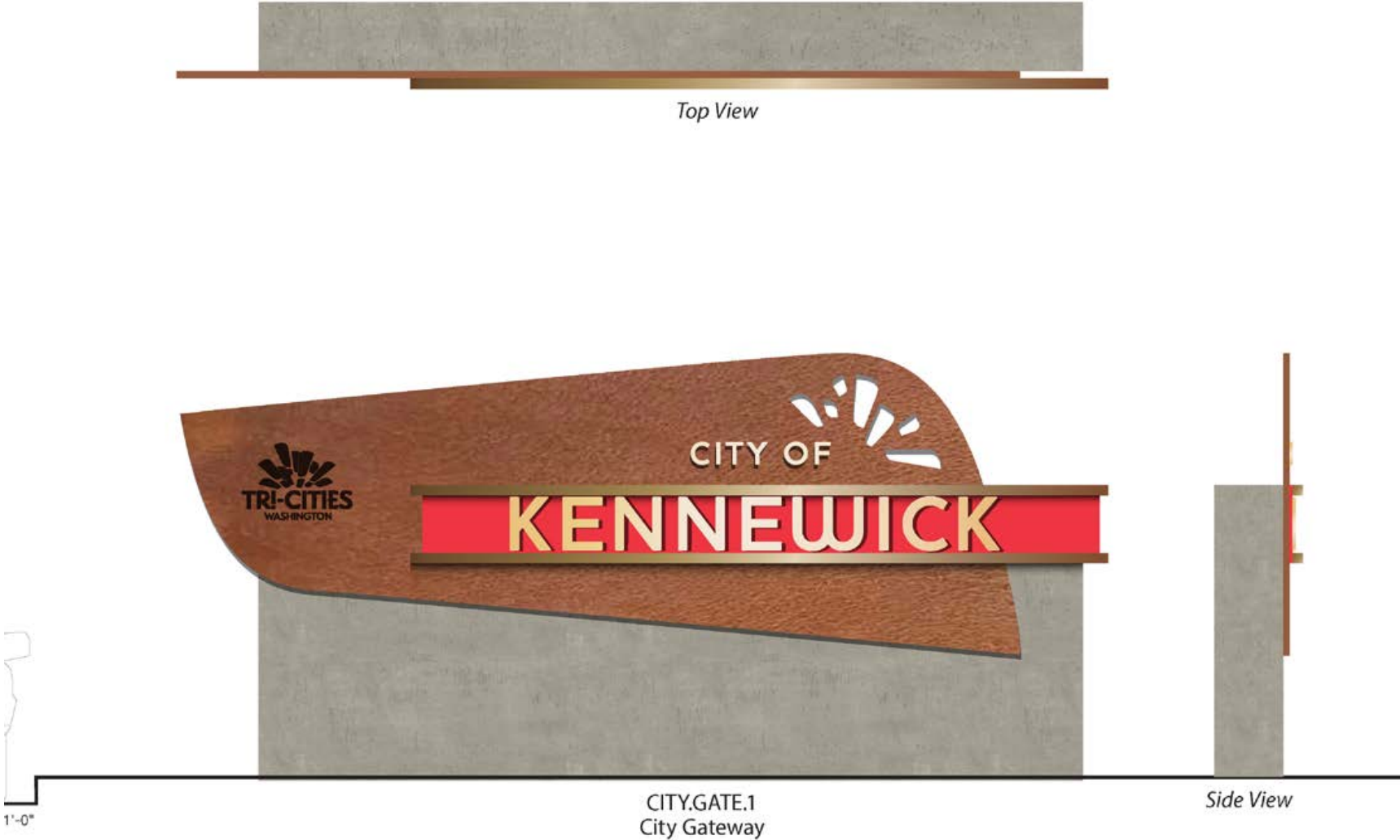
Why Wayfinding? Economic Impact Funding Sources



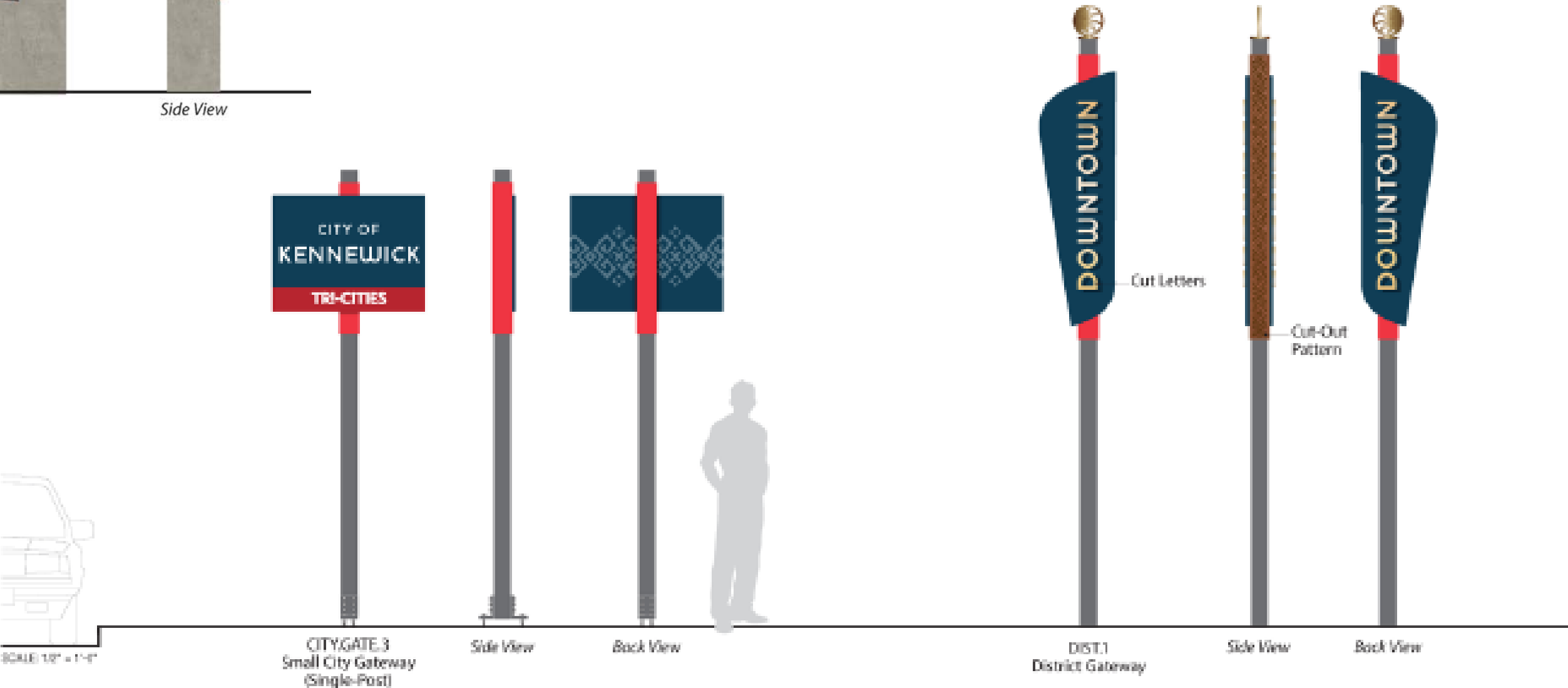
The Return on Investment for the Tri- Cities Regional Wayfinding Program will be measured through various tools;

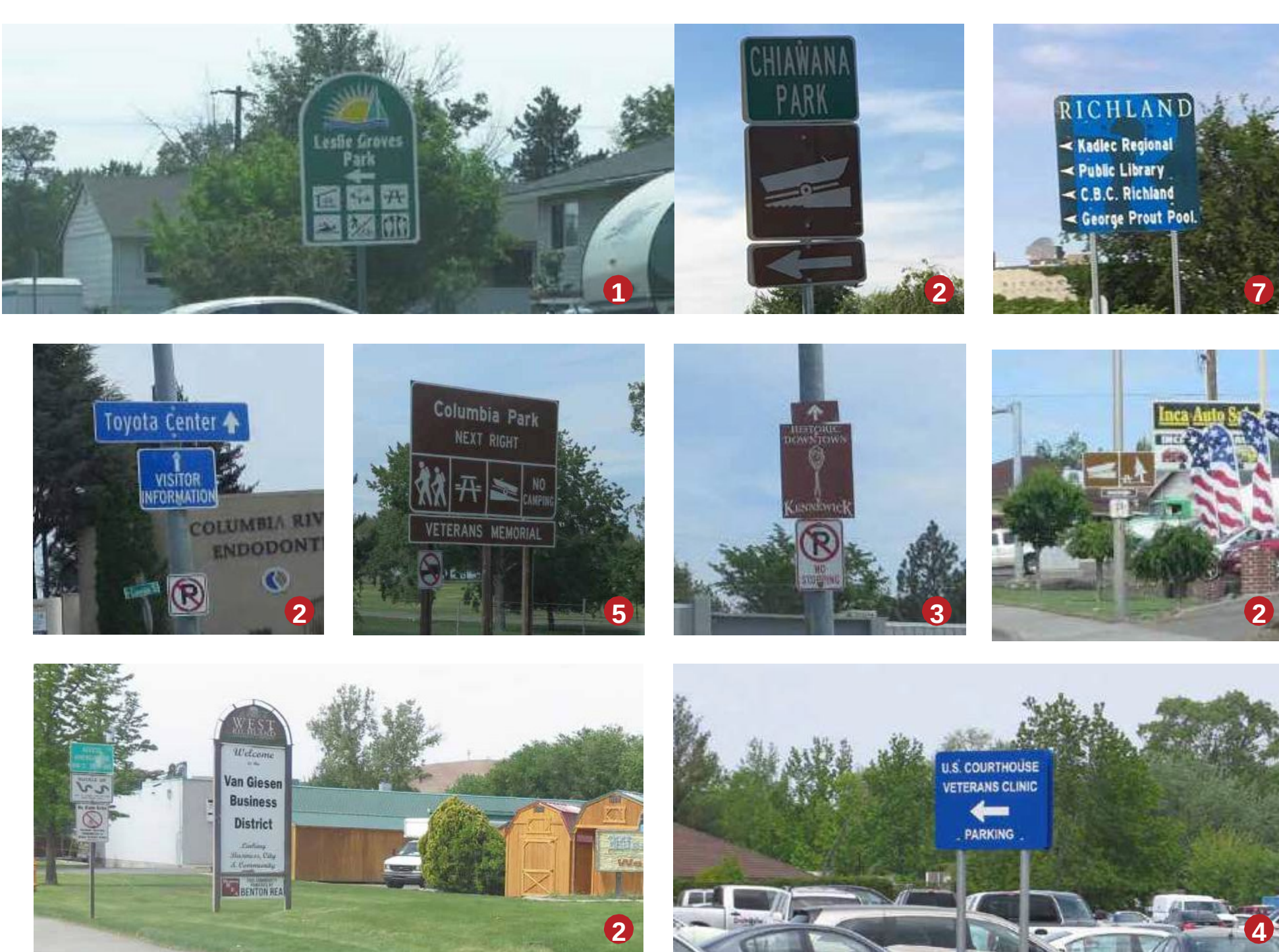
- Average night stay
- Attraction visitation/attendance
- Brand recognition
- Increased new and repeat visitation
- Increased hotel and retail sales

City Entrance Sign



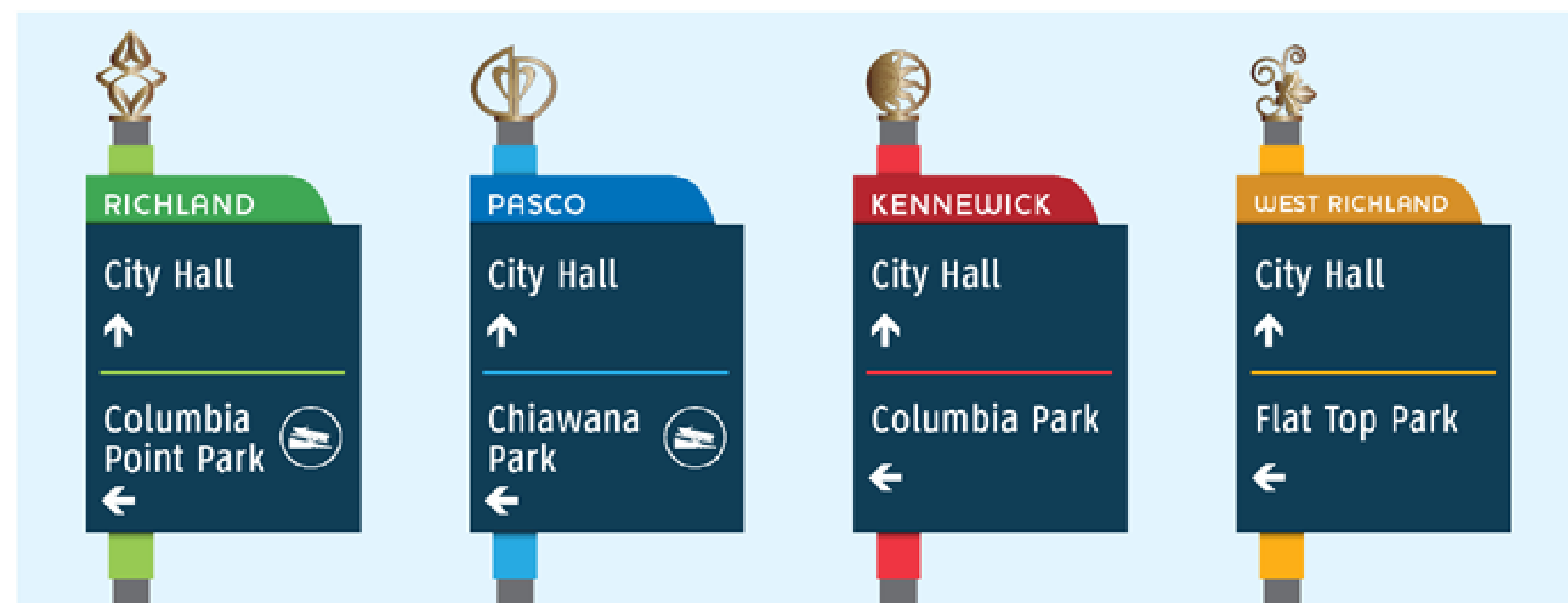
Downtown District Sign





Current Signage

Wayfinding Signage



Cities are color-coded
Local Artist Finials



Project Approach: Design

Develop a single overriding theme that can be adapted to a variety of municipalities, conditions and design aesthetics.

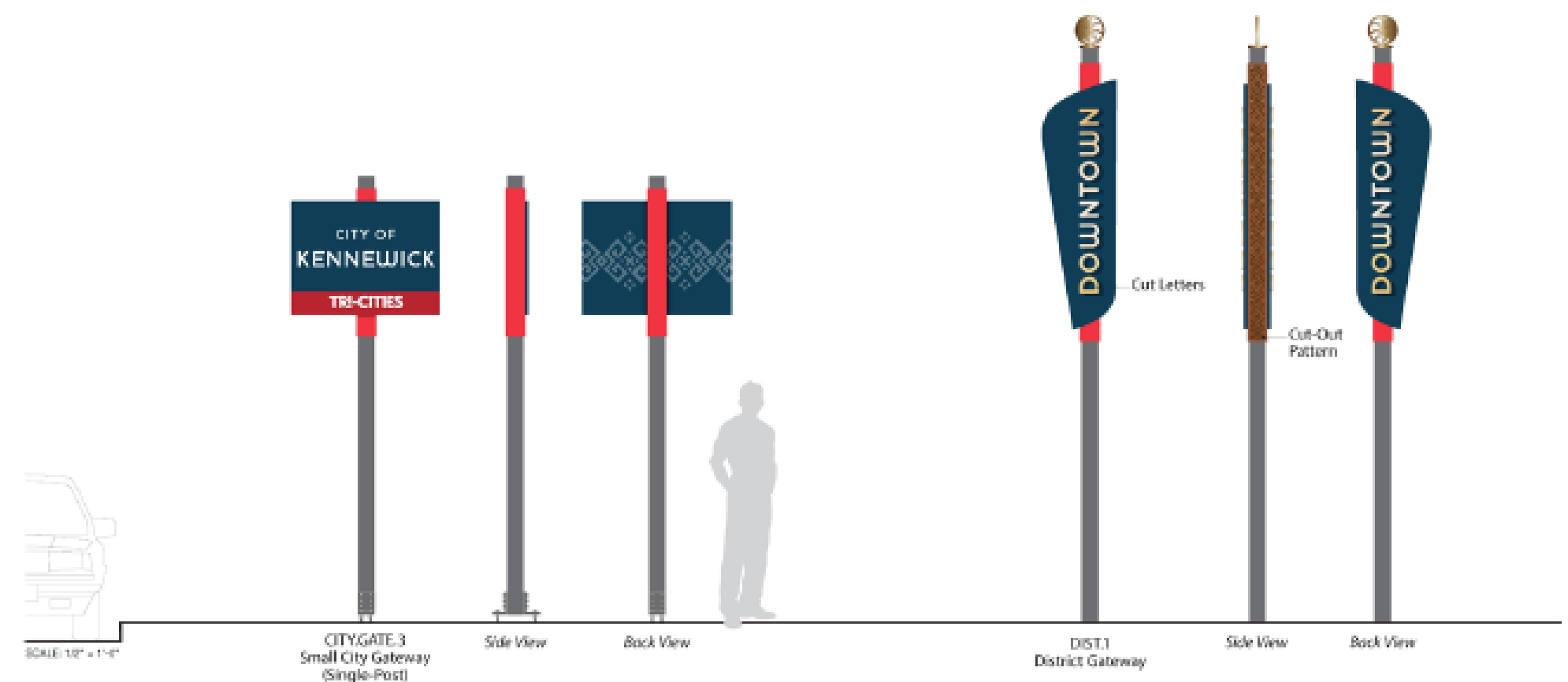
Scale shall be appropriate to the place. (high speed, downtown, rural, etc)

Promote Tri-Cities Name/Brand at Entry Points and along Highways.

Promote the Depth of Destinations, include Pictograms to showcase recreation

Establish Cross Marketing Opportunities

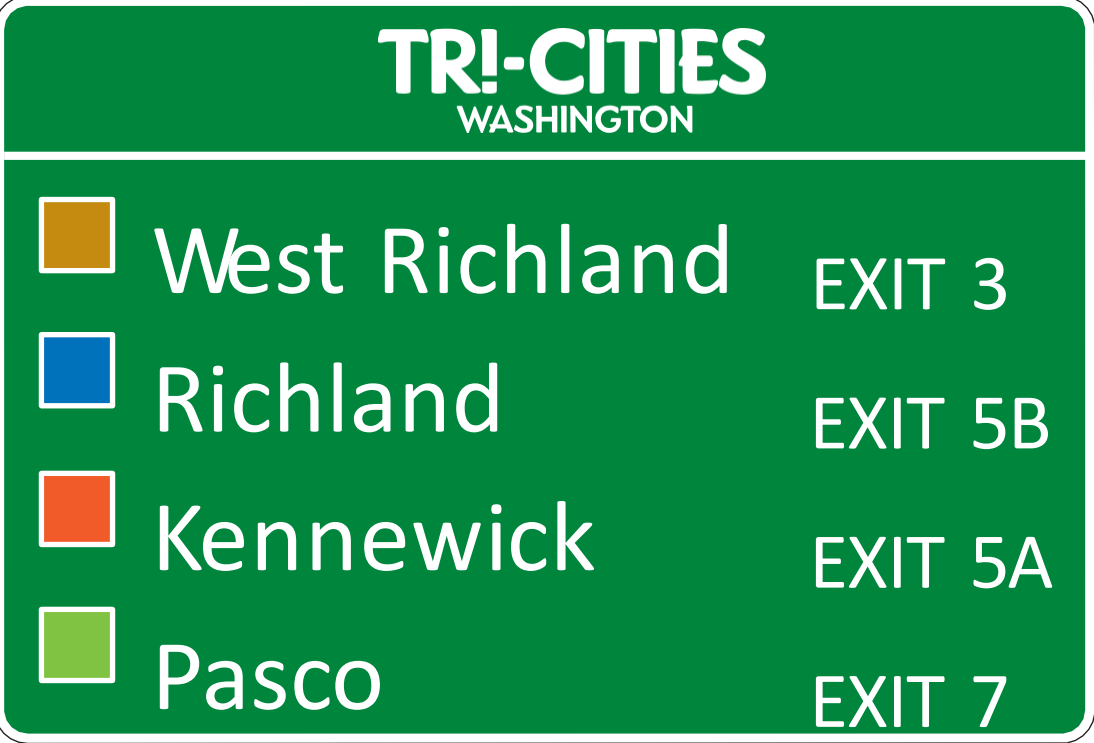
REGIONAL WAYFINDING PROGRAM



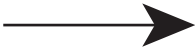
BOLDER BRIGHTER BOUNTIFUL



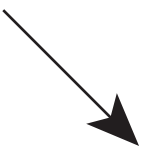




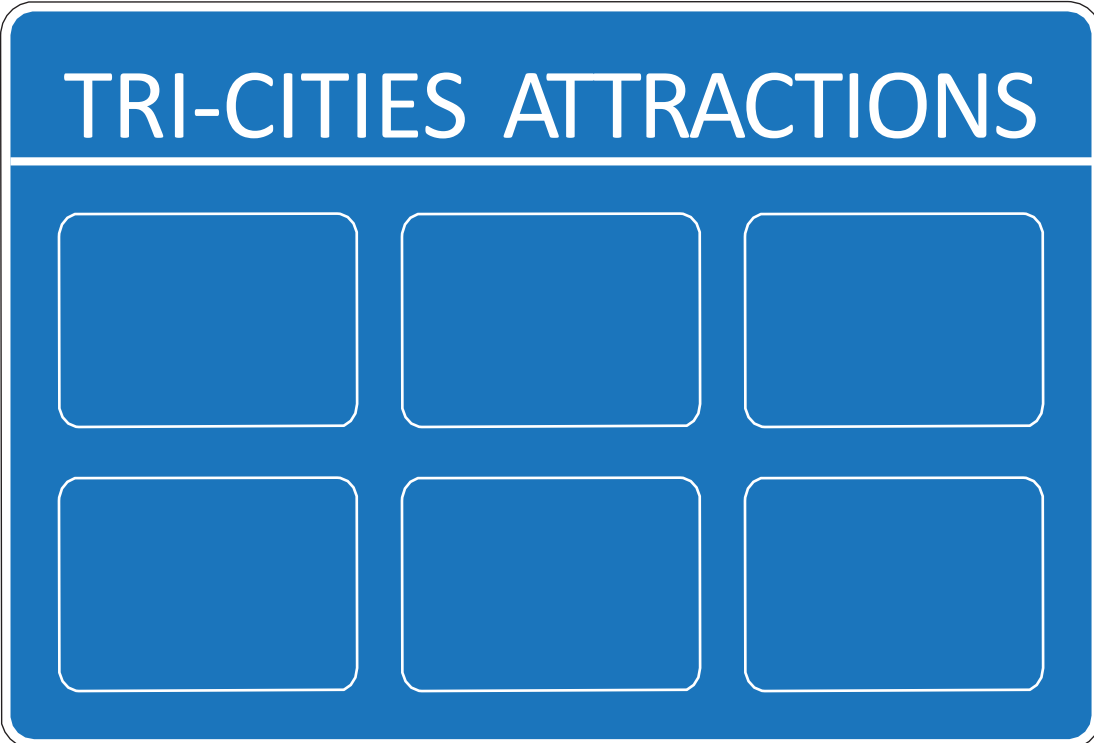
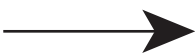
Highway Sign on Interstate 182
E
OPTION 1



Highway Exit Sign on Interstate
182 E
OPTION 1



Highway Sign on Interstate 182
E
OPTION 2



TODS Sign on Interstate
182 E
OPTION 2



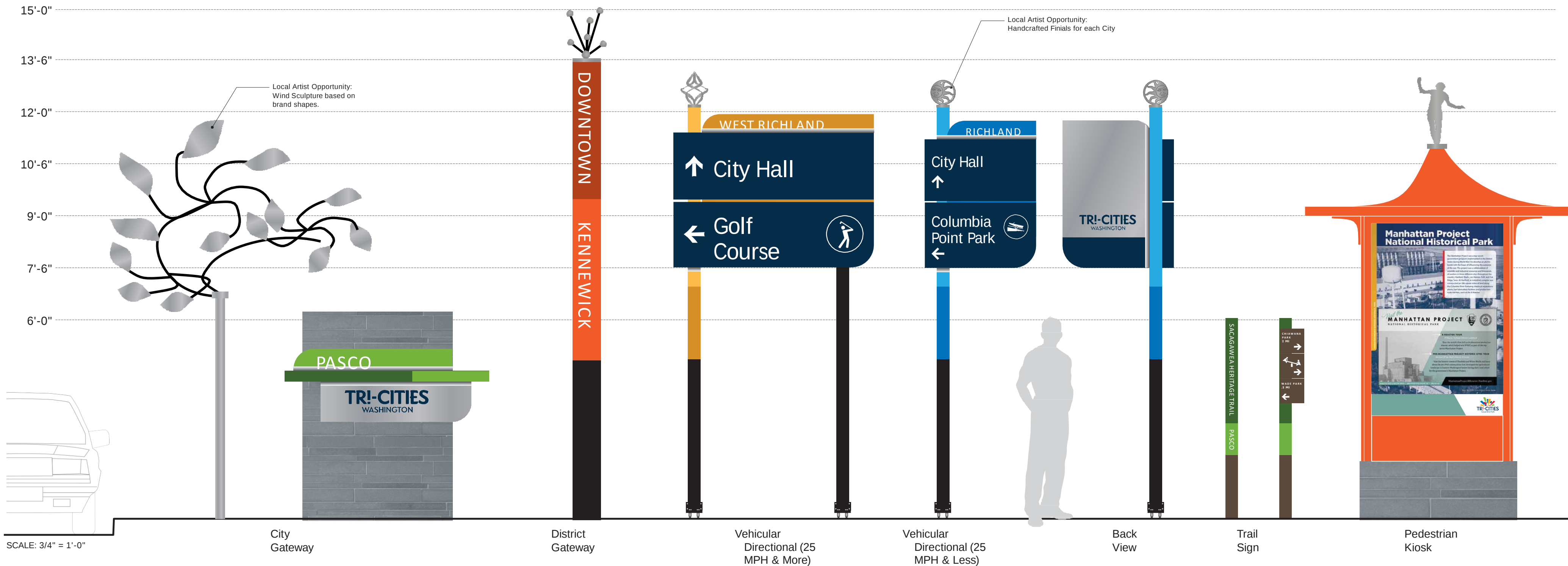
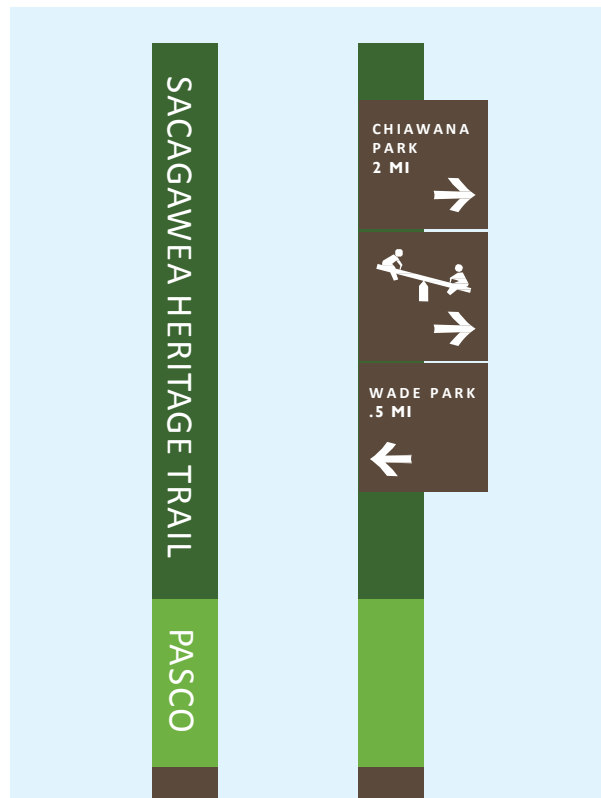
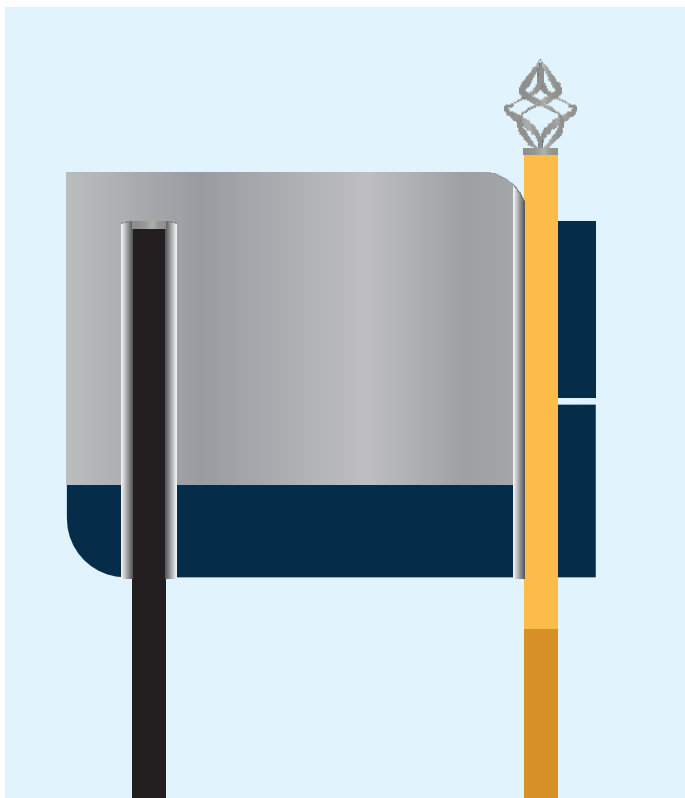


WEST RICHLAND

RICHLAND

KENNEWICK

PASCO



“The wayfinding project is a terrific example of regional cooperation, we had so many partners ... working together on a project that required coordination, agreements, collaboration and funding. They all did a great job of ensuring that this moved from a concept to a reality.”

Mike Malone
CEO
Northwest Arkansas Council

Next Steps

Council Workshop Coversheet



Agenda Item Number	3.	Meeting Date	10/10/2017
Agenda Item Type	Presentation		
Subject	Code Amendment Updates		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	City Attorney		

Info Only	☐
Policy Review	☒
Policy DevMnt	☒
Other	☐

Summary

The City Attorney's Office is recommending various amendments to the Kennewick Municipal Code (KMC). The first set of amendments relate to criminal provisions of the KMC in Chapters 9 and 10. The first proposed amendment is to add a non-exhaustive list of defined "unnecessary and unusual" noises to KMC 9.52.030. This amendment will serve to avoid unconstitutional vagueness challenges to that section. The second proposed amendment is to adopt subsections of RCW 10.99.020 and 9A.36.041 by reference into KMC Chapter 10.01. These subsections contain definitions related to domestic violence and will allow us to properly classify charges as domestic violence when they occur between family and household members and to ensure that those offenses count as prior domestic violence convictions for a subsequent felony charge. The final proposed amendment contemplates numerous changes to KMC Chapter 10.10, relating to "Destruction or Removal of Property", KMC 10.10.110. These amendments would re-title this provision "Destruction of Property" and remove all references to removal of property. Additionally, this section would be restructured to provide that the severity of the crime (misdemeanor or gross misdemeanor) is based on the amount of damage caused rather than the value of the property damaged. A provision regarding aggregate value is also proposed. Finally, these amendments would modify KMC 10.10.010 by changing the definition of "value" to include actual value or replacement value and by adding a definition of "physical damage". These amendments will serve to clarify the statute penalizing Destruction of Property, distinguish it from the crime of Theft, and make the amount of damage easier to prove.

The second set of amendments proposes several new sections to the zoning code establishing church sponsored temporary homeless encampments as a permitted use subject to approval of a temporary homeless encampment permit. A new section creating the temporary homeless encampment permit and laying out procedural information regarding that permit is proposed as KMC 18.42.105. A new section, added as KMC 18.12.255, lists the requirements for temporary homeless encampments. Definitions of terms included in those requirements are proposed to KMC Chapter 18.09. These amendments will serve to ensure the City is compliant with RCW 35.21.915 while allowing us to regulate church sponsored temporary homeless encampments to the extent necessary to protect public health and safety.

Through

Christina M. Humann
Oct 04, 13:59:13 GMT-0700 2017

Dept Head Approval

Lisa Beaton
Oct 04, 14:01:24 GMT-0700 2017

City Mgr Approval

Marie Mosley
Oct 06, 07:41:48 GMT-0700 2017

Attachments:

Presentation
KMC 18.42-Redline
KMC 18.12-Redline
KMC 18.09-Redline
RCW 10.99.020
RCW 9A.36.041



PROPOSED CRIMINAL CODE AMENDMENTS

CITY COUNCIL WORKSHOP 10-10-17

KMC Sections 9.52, 10.01, & 10.10



Proposed Amendments to KMC 9.52

Current Law – Unnecessary Noise

- Kennewick Municipal Code 9.52.030 prohibits the making of any **unnecessary or unusual noise** that unreasonably annoys, injures, or endangers the comfort, repose, health or safety of others.
- “Unnecessary or Unusual Noise” is not defined in the KMC nor are examples of prohibited noise provided.

Relevant Law

- The lack of a definition or examples of the term “Unnecessary and Unusual Noise” raises concerns about constitutionality based on vagueness.
- An ordinance or statute is “void for vagueness if it is framed in terms so vague that persons of common intelligence must necessarily guess at its meaning and differ as to its application.” *O'Day v. King Cy.*, 109 Wash.2d 796, 810, 749 P.2d 142 (1988).

Proposed Changes

- Adding a non-exhaustive list of defined unnecessary and/or unusual noises to KMC 9.52.030, including loud and raucous, and frequent, repetitive, or continuous sounds made by:
 - ▣ animals
 - ▣ car horns
 - ▣ musical instruments
 - ▣ the amplified human voice
 - ▣ outdoor use of an emergency warning device that is not being tested and when no emergency exists
 - ▣ sounds emanating from a residence from audio equipment, television, social gatherings, etc.
 - ▣ blasting devices used without a permit
 - ▣ sounds made in connection with the starting, repair, rebuilding, of vehicles or engines
- Bellevue, Oak Harbor, Seattle, and Spokane noise ordinances contain similar examples of prohibited noises.

Benefits of Amendments

- Amendment will serve to make noise ordinance more specific and allow persons of ordinary intelligence to better know what specific conduct is prohibited.
- Even in the event that a person is charged with violating KMC 9.52.030 for making a noise that is not specifically outlined in the ordinance, this amendment would make it easier to argue that the noises that are present in the ordinance give context and examples of the types of noises that are prohibited under the ordinance.



Proposed Amendments to KMC 10.01

Current Law

- “Domestic Violence” and terms related to the classification of a crime as domestic violence are not defined in the KMC.
- A list of crimes that can be classified as Domestic Violence are not provided for in the KMC.

Relevant Law

□ RCW 10.99.020

- *Subsection 5 defines “Domestic Violence” by providing a list of crimes that are properly classified as domestic violence when committed by one family or household member against another.*
- *Subsection 3 defines the term “family or household members”.*
- *Subsection 4 defines the term “dating relationship” as used in the definition of “family or household members”.*

RCW 10.99.020 in its entirety is attached to the workshop packet for review.

Relevant Law

□ *House Bill 1163 & RCW 9A.36.041*

- *Laws of 2017, ch. 272, sec. 1 elevated an Assault in the Fourth Degree charge for a person with two previous domestic violence convictions within ten years to a class C felony (generally is a gross misdemeanor).*
- *The two prior domestic violence convictions must meet a specific definition of “family or household members”, and have had that definition pled and proven, to qualify as predicate domestic violence offenses.*
- *9A.36.041 Subsection 4 provides this definition.*

RCW 9A.36.041 in its entirety is attached to the workshop packet for review.

Proposed Changes

- Adopt RCW 10.99.020(3), (4), and (5) into KMC 10.01 by reference
 - ▣ Provides definitions of “Domestic Violence”, “Family or Household Members”, and “Dating Relationship”.
- Adopt RCW 9A.36.041(4) into KMC 10.01 by reference
 - ▣ Provides the predicate offense definition of “Family or Household Members” that must be pled and proven in certain domestic violence crimes to allow a subsequent Assault 4 charge to be prosecuted as a felony.



Proposed Amendments to KMC 10.10

Current Status of the Law – Destruction/Removal of Property

- Kennewick Municipal Code 10.10.110
 - ▣ Differentiation between a gross misdemeanor and a misdemeanor is determined by the value of the property that has been damaged or removed. The amount of damage caused is currently not considered.
 - ▣ No reference to continuing pattern of destruction of property.
 - ▣ Allows for prosecution of removal of property, which is duplicative of the Theft statute, KMC 10.10.020.
Removal of property is properly prosecuted under KMC 10.10.020, and is not prosecuted under KMC 10.10.110.

Current Status of the Law



- Kennewick Municipal Code 10.10.010(13)
 - ▣ Value means the market value of the property or services at the time and in the approximate area of the criminal act.

Relevant Law

- RCW 9A.48.100
 - ▣ Defines “Physical Damage” to include its ordinary meaning, and also includes “any diminution in the value of any property as the consequence of an act and the cost to repair any physical damage.”
- *State v. Newcomb*, 160 Wn. App. 184, 192, 246 P.3d 1286, 1290 (2011).
 - ▣ For purposes of determining degree of malicious mischief, ordinary meaning of “damages” includes reasonable cost of repairs to restore injured property to its former condition.

Relevant Law

- *State v. Wilson*, 6 Wash.App. 443, 493 P.2d 1252 (1972); *State v. Hammond*, 6 Wash. App. 459, 463, 493 P.2d 1249, 1251-52 (1972).
 - ▣ Instructed that replacement cost is a recognized factor to be considered in determining market value of property.
- *State v. Clark*, 13 Wn. App. 782, 788, 537 P.2d 820, 824 (1975).
 - ▣ In the absence of a market value, evidence of the actual value or the replacement value may be used to establish value.

Proposed Changes

In order to properly classify the crime and establish the amount of damage, we are proposing the following:

- Change the title of KMC 10.10.110 to “Destruction of Property”.
- Remove all mention of removal of property from KMC 10.10.110.
- Add language regarding prohibited types of behavior relating to destruction of property.
 - For consistency, add language from RCW 9A.48.090.
- Revise KMC 10.10.110 to have subsets to clarify if the damage constitutes a misdemeanor or gross misdemeanor.
- Add section to permit aggregation into one count if there is various damage caused as a result of a common scheme or plan.
- Add a definition to 10.10.010 regarding “Physical Damage.”
- Amend the definition of value in KMC Chapter 10.10.010(13) to include actual value and replacement value.

Questions?



CHAPTER 10.01

GENERAL PROVISIONS

SECTION:

10.01.010: Short Title - Severability
10.01.020: Purposes - Principles of Construction
10.01.030: Criminal Jurisdiction
10.01.040: Classification of Crime
10.01.050: People Capable of Committing Crimes - Capability of Children
10.01.060: Common Law to Supplement Ordinance
10.01.070: Who Amenable to Criminal Ordinances
10.01.080: Limitation of Actions
10.01.090: Application of General Provisions to the Code
10.01.100: Proof Beyond a Reasonable Doubt
10.01.110: Definitions
10.01.120: General Requirements of Culpability
10.01.130: Liability for Conduct of Another - Complicity
10.01.140: Criminal Liability of Corporations and Persons Acting or Under a Duty to Act in Their Behalf
10.01.150: Insanity
10.01.160: Definition of Necessary
10.01.170: Use of Force - When Lawful
10.01.180: Duress
10.01.190: Entrapment
10.01.200: Action for Being Detained on Mercantile Establishment Premises for Investigation - "Reasonable Grounds" As Defense
10.01.202: Arrest Without a Warrant - When Authorized
10.01.204: Stopping and Detaining - When Authorized
10.01.206: Citation and Notice to Appear or Arrest - Considerations
10.01.210: Intoxication
10.01.230: Criminal Attempt
10.01.240: Criminal Solicitation
10.01.250: Criminal Conspiracy
10.01.260: Seizure of Property
10.01.270: RCW Section Adopted - Seizure and Forfeiture Under the Uniform Controlled Substances Act
10.01.280: RCW Section Adopted – Seizure and Forfeiture – Prostitution
[10.01.290: RCW Section Adopted – Definitions Pertaining to Domestic Violence](#)
[10.01.300: RCW Section Adopted – Domestic Violence Predicate Offense Definition](#)

10.01.010: Short Title - Severability:

(1) This Title shall be referred to and known as the "Kennewick Criminal Code."
(2) If any provision of this Title, or its application to any person or circumstance is held invalid, the remainder of the Title, or the application of the provision to other persons or circumstances is not affected and to that end the provisions of this Title are declared to be severable. (Ord. 2385 Sec. 1 (part), 1979; Ord. 2089 Sec. 2 (part), 1977)

10.01.020: Purposes - Principles of Construction:

- (1) The general purposes of the provisions governing the definition of offenses are:
 - (a) To forbid and prevent conduct that inflicts or threatens substantial harm to individual or public interests;
 - (b) To safeguard conduct that is without culpability from condemnation as criminal; and
 - (c) To give fair warning of the nature of the conduct declared to constitute an offense;
- (2) The provisions of this Title shall be construed according to the fair import of their terms but when the language is susceptible of differing constructions it shall be interpreted to further the general purposes stated in this Title. (Ord. 2385 Sec. 1 (part), 1979)

10.01.030: Criminal Jurisdiction: The following persons are liable for punishment:

- (1) A person who commits in the City any crime, in whole or in part.
- (2) A person who commits out of the City any act which, if committed within it, would be a theft and is afterward found in the City with any of the stolen property.
- (3) A person who, being out of the City, counsels, causes, procures, aids or abets another to commit a crime in this City.
- (4) A person who commits an act without the City which affects persons or property within the City, which, if committed within the City, would be a crime.
- (5) A person who commits a crime toward any municipal property or concerning any municipal utility which, if committed, within the City, would be a crime. (Ord. 2385 Sec. 1 (part), 1979)

10.01.040: Classification of Crime:

- (1) A crime is a gross misdemeanor when so designated in this Title. A gross misdemeanor is punishable, upon conviction thereof, by a fine of not more than \$5,000.00, or by imprisonment for not more than one year, or by both such fine and imprisonment.
- (2) A crime is a misdemeanor when so designated in this Title. A misdemeanor is punishable upon conviction thereof by a fine of not more than \$1,000.00, or by imprisonment for not more than ninety days, or by both such fine and imprisonment. Any offense not designated a gross misdemeanor or an infraction is a misdemeanor.
- (3) An unlawful act designated an infraction is a civil offense punishable only by a civil penalty not exceeding \$500.00. (Ord. 2944 Sec. 2, 1985: Ord. 2858 Sec. 2, 1984: Ord. 2385 Sec. 1 (part), 1979)

10.01.050: People Capable of Committing Crimes - Capability of Children: Children under the age of eight years are incapable of committing crime. Children of eight, and under twelve years of age, are presumed to be incapable of committing crime, but this presumption may be removed by proof that they have sufficient capacity to understand the act or neglect, and to know that it was wrong. Whenever in legal proceedings it becomes necessary to determine the age of a child, he may be produced for inspection, to enable the court or jury to determine the age thereby; and the court may also direct his examination by one or more physicians, whose opinion shall be competent evidence upon the question of his age. (Ord. 2385 Sec. 1 (part), 1979)

10.01.060: Common Law to Supplement Ordinance: The provisions of the common law relating to the commission of crime and punishment thereof, insofar as not inconsistent with

the Constitution and statutes of the State of Washington, shall supplement all the penal ordinances of this City and all persons offending against the same shall be tried in municipal court of the City of Kennewick. (Ord. 2385 Sec. 1 (part), 1979)

10.01.070: Who Amenable to Criminal Ordinances: Every person, regardless of whether or not he is an inhabitant of this City, may be tried and punished under the laws of this City for an offense committed by him therein, except when such offense is cognizable exclusively in the courts in the United States or State of Washington. (Ord. 2385 Sec. 1 (part), 1979)

10.01.080: Limitation of Actions: The prosecutions for gross misdemeanors not commenced within two years after the commission of the offense shall be barred. The prosecution for misdemeanors not commenced within one year after the commission of the offense shall be barred. Where a complaint has been filed within the time limit for the commencement of a criminal action, either a misdemeanor or a gross misdemeanor, if the complaint be set aside, the time limitation provided in this Section shall be extended by the length of time from the time of filing such complaint to the time such complaint was set aside. (Ord. 3947 Sec. 1, 2000; Ord. 2385 Sec. 1 (part), 1979)

10.01.090: Application of General Provisions to the Code: The provisions of this Chapter are applicable to offenses defined by this Title or other ordinances unless this Title or such other ordinance specifically provides otherwise. (Ord. 2385 Sec. 1 (part), 1979)

10.01.100: Proof Beyond a Reasonable Doubt:

(1) Every person charged with the commission of a crime is presumed innocent unless proved guilty. No person may be convicted of a crime unless each element of such crime is proved by competent evidence beyond a reasonable doubt.

(2) When a crime has been proven against a person, and there exists a reasonable doubt as to which of two or more degrees he is guilty, he shall be convicted only of the lowest degree.

(3) Unlawful acts designated as infractions need only be proved by a preponderance of the evidence. They are not crimes but civil wrongs. (Ord. 2858 Sec. 3, 1984; Ord. 2385 Sec. 1 (part), 1979)

10.01.110: Definitions: In this Title, unless a different meaning plainly is required:

- (1) "Acted" includes, where relevant, omitted to act;
- (2) "Actor" includes, where relevant, a person failing to act;
- (3) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary;
- (4)
 - (a) "Bodily Injury" or "Physical Injury" means physical pain, illness, or an impairment of physical condition;
 - (b) "Substantial Bodily Harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;
- (5) "Building," in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;

(6) “Dating relationship” means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties;

(7) “Deadly Weapon” means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a “vehicle” as defined in this Section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or substantial bodily harm;

(8) “Detention Facility” means any place used for the confinement of a person (a) arrested for, charged with or convicted of an offense; or (b) charged with being or adjudicated to be a juvenile offender as defined in RCW 13.40.020 as now existing or hereafter amended; or (c) held for extradition or as a material witness; or (d) otherwise confined pursuant to an order of a court, except an order under Chapter 13.34 RCW or Chapter 13.32A RCW; or (e) in any work release, furlough, or other such facility or program.

(9) “Domestic Violence” means a crime committed by one family or household member against the person or property of another family or household member;

(10) “Dwelling” means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging;

(11) “Family or Household Members” mean spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren;

(12) “Government” includes any branch, subdivision, or agency of the government of this state and any county, city, district, or other local government unit;

(13) “Governmental Function” includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government;

(14) “Indicted” and “Indictment” include “informed against” and “information,” and “informed against” and “information” include “indicted” and “indictment;”

(15) “Judge” includes every judicial officer authorized alone or with others, to hold or preside over a court;

(16) “Lawful” means any thing or act not prohibited by law, custom or usage. “Unlawful” means any thing or act prohibited by law, custom or usage and includes all civil wrongs.

(17) “Legal” means any thing or act not prohibited by law. “Illegal” means any thing or act prohibited by law.

(18) “Malice” and “Maliciously” shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty;

(19) “Oath” includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated; in this Title, written statements shall be treated as if made under oath if:

- (a) The statement was made on or pursuant to instructions of an official form bearing notice, authorized by law, to the effect that false statements made therein are punishable;

- (b) The statement recites that it was made under oath, the declarant was aware of such recitation at the time he made the statement, intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto; or
- (c) It is a statement, declaration, verification, or certificate, made within or outside the state of Washington, which is certified or declared to be true under penalty of perjury.
- (20) "Officer" and "Public Officer" means a person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistant, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer;
- (21) "Omission" means a failure to act;
- (22) "Peace Officer" means a duly appointed city, county, or state law enforcement officer;
- (23) "Pecuniary Benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain;
- (24) "Person," "he," and "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association;
- (25) "Place of Work" includes, but is not limited to, all the lands and other real property of a farm or ranch in case of an actor who owns, operates, or is employed to work on such a farm or ranch;
- (26) "Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including, but not limited to, any state correctional institution or any county or city jail;
- (27) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;
- (28) "Property" means anything of value, whether tangible or intangible, real or personal;
- (29) "Public Servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function;
- (30) "Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto;
- (31) "Statute" means the Constitution or an act of the legislature or initiative or referendum of this state;
- (32) "Threat" means to communicate, directly or indirectly the intent:
 - (a) To cause bodily injury in the future to the person threatened or to any other person; or
 - (b) To cause physical damage to the property of a person other than the actor; or
 - (c) To subject the person threatened or any other person to physical confinement or restraint; or
 - (d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or
 - (e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

- (f) To reveal any information sought to be concealed by the person threatened; or
- (g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
- (h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or
- (i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
- (j) To do any other act which is intended to harm substantially the person threatened, or another, with respect to his health, safety, business, financial condition, or personal relationships.

(33) "Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or sail;

(34) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular. (Ord. 5424 Sec. 1, 2012; Ord. 5057 Sec. 1, 2004; Ord. 2876 Sec. 1, 1984; Ord. 2641 Sec. 1, 1981; Ord. 2385 Sec. 1 (part), 1979)

10.01.120: General Requirements of Culpability:

- (1) Kinds of Culpability Defined.
 - (a) Intent. A person acts with intent or intentionally when he acts with the objective or purpose to accomplish a result which constitutes a crime.
 - (b) Knowledge. A person knows or acts knowingly or with knowledge when:
 - (i) He is aware of a fact, facts, or circumstances or result described by a statute defining an offense; or
 - (ii) He has information which would lead a reasonable man in the same situation to believe that facts exist, which facts are described by a statute defining an offense.
 - (c) Recklessness. A person is reckless or acts recklessly when he knows of and disregards a substantial risk that a wrongful act may occur and his disregard of such substantial risk is a gross deviation from conduct that a reasonable man would exercise in the same situation.
 - (d) Criminal Negligence. A person is criminally negligent or acts with criminal negligence when he fails to be aware of a substantial risk that a wrongful act may occur and his failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable man would exercise in the same situation.

(2) Substitutes for Criminal Negligence, Recklessness, and Knowledge. When a statute provides that criminal negligence suffices to establish an element of an offense, such element also is established if a person acts intentionally, knowingly, or recklessly. When recklessness suffices to establish an element, such element also is established if a person acts intentionally or knowingly. When acting suffices to establish an element, such element also is established if a person acts intentionally.

(3) Culpability as Determinant Grade of Offense. When the grade or degree of an offense depends on whether the offense is committed intentionally, knowingly, recklessly, or with criminal negligence, its grade or degree shall be the lowest for which the determinative kind of culpability is established with respect to any material element of the offense.

(4) Requirement of Willfulness Satisfied by Acting Knowingly. A requirement that an offense be committed willfully is satisfied if a person acts knowingly with respect to

the material elements of the offense, unless a purpose to impose further requirements plainly appears. (Ord. 2385 Sec. 1 (part), 1979)

10.01.130: Liability for Conduct of Another - Complicity:

- (1) A person is guilty of a crime if it is committed by the conduct of another person for which he is legally accountable.
- (2) A person is legally accountable for the conduct of another person when:
 - (a) Acting with the kind of culpability that is sufficient for the commission of the crime, he causes an innocent or irresponsible person to engage in such conduct; or
 - (b) He is made accountable for the conduct of such other person by this Title or by the law defining the crime; or
 - (c) He is an accomplice of such other person in the commission of the crime.
- (3) A person is an accomplice of another person in the commission of a crime if:
 - (a) With knowledge that it will promote or facilitate the commission of the crime, he:
 - (i) Solicits, commands, encourages, or requests such other person to commit it; or
 - (ii) Aids or agrees to aid such other person in planning or committing it; or
 - (b) His conduct is expressly declared by law to establish his complicity.
- (4) A person who is legally incapable of committing a particular crime himself may be guilty thereof if it is committed by the conduct of another person for which he is legally accountable, unless such liability is inconsistent with the purpose of the provision establishing his incapacity.
- (5) Unless otherwise provided by this Title or by the law defining the crime, a person is not an accomplice in a crime committed by another person if:
 - (a) He is a victim of that crime; or
 - (b) He terminates his complicity prior to the commission of the crime, and either gives timely warning to the law enforcement authorities or otherwise makes a good faith effort to prevent the commission of the crime.
- (6) A person legally accountable for the conduct of another person may be convicted on proof of the commission of the crime and of his complicity therein, though the person claimed to have committed the crime has not been prosecuted or convicted or has been convicted of a different crime or degree of crime or has an immunity to prosecution or conviction or has been acquitted. (Ord. 2385 Sec. 1 (part), 1979)

10.01.140: Criminal Liability of Corporations and Persons Acting or under a Duty to Act in Their Behalf:

- (1) As used in this Section:
 - (a) "Agent" means any director, officer, or employee of a corporation, or any other person who is authorized to act on behalf of the corporation;
 - (b) "Corporation" includes a joint stock association;
 - (c) "High Managerial Agent" means an officer or director of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.
- (2) A corporation is guilty of an offense when:
 - (a) The conduct constituting the offense consists of an omission to discharge a specific duty of performance imposed on corporations by law; or

- (b) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or tolerated by the board of directors or by a high managerial agent acting within the scope of his employment and on behalf of the corporation; or
- (c) The conduct constituting the offense is engaged in by an agent of the corporation, other than a high managerial agent, while acting within the scope of his employment and in behalf of the corporation and (i) the offense is a gross misdemeanor or misdemeanor; or (ii) the offense is one defined by a statute which clearly indicates a legislative intent to impose such criminal liability on a corporation.

(3) A person is criminally liable for conduct constituting an offense which he performs or causes to be performed in the name of or on behalf of a corporation to the same extent as if such conduct were performed in his own name or behalf.

(4) Whenever a duty to act is imposed by law upon a corporation, any agent of the corporation who knows he has or shares primary responsibility for the discharge of the duty is criminally liable for a reckless or, if a high managerial agent, criminally negligent omission to perform the required act to the same extent as if the duty were by law imposed directly upon such agent. (Ord. 2385 Sec. 1 (part), 1979)

10.01.150: Insanity: To establish the defense of insanity, it must be shown that:

(1) At the time of the commission of the offense, as a result of mental disease or defect, the mind of the actor was affected to such an extent that:

- (a) He was unable to perceive the nature and quality of the act with which he is charged; or
- (b) He was unable to tell right from wrong with reference to the particular act charged.

(2) The defense of insanity must be established by a preponderance of the evidence. (Ord. 2385 Sec. 1 (part), 1979)

10.01.160: Definition of Necessary: In Sections 10.01.170 - .210, unless a different meaning is plainly required:

“Necessary” means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended. (Ord. 2385 Sec. 1 (part), 1979)

10.01.170: Use of Force - When Lawful: The use, attempt, or offer to use force upon or toward the person of another shall not be unlawful in the following cases:

- (1) Whenever necessarily used by a public officer in the performance of legal duty, or a person assisting him and acting under his direction;
- (2) Whenever necessarily used by a person arresting one who has committed a felony and delivering him to a public officer competent to receive him into custody;
- (3) Whenever used by a party about to be injured, or by another lawfully aiding him, in preventing or attempting to prevent an offense against his person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his possession, in case the force is not more than shall be necessary;
- (4) Whenever reasonably used by a person to detain someone who enters or remains unlawfully in a building or on real property lawfully in the possession of such person, so long as such detention is reasonable in duration and manner to investigate the reason for

the detained person's presence on the premises, and so long as the premises in question did not reasonably appear to be intended to be open to members of the public;

(5) Whenever used in a reasonable and moderate manner by a parent, teacher or guardian for the purpose of restraining or correcting the child. Any use of force not otherwise lawful on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for the purpose of restraining or correcting the child. It is presumptively unreasonable to restrain or correct a child by throwing, kicking, burning or cutting him; striking him with a closed fist; shaking him if he is under the age of three; interfering with his breathing; threatening him with a deadly weapon; or doing any other act likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks;

(6) Whenever used by a carrier of passengers or his authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than shall be necessary to expel the offender with reasonable regard to his personal safety;

(7) Whenever used by any person to prevent a mentally retarded person or a mentally ill person from committing an act dangerous to himself or another, or in enforcing necessary restraint for the protection of his person, or his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of his person. (Ord. 5335 Sec. 1, 2011; Ord. 2641 Sec. 2, 1981; Ord. 2385 Sec. 1 (part), 1979)

10.01.180: Duress:

- (1) In any prosecution for a crime, it is a defense that:
 - (a) The actor participated in the crime under compulsion by another who by threat or use of force created an apprehension in the mind of the actor that in case of refusal he or another would be liable to immediate death or immediate grievous bodily injury; and
 - (b) That such apprehension was reasonable upon the part of the actor; and
 - (c) That the actor would not have participated in the crime except for the duress involved.
- (2) The defense of duress is not available if the crime charged is murder, manslaughter, or homicide by abuse.
- (3) The defense of duress is not available if the actor intentionally or recklessly places himself in a situation in which it is probable that he will be subject to duress.
- (4) The defense of duress is not established solely by a showing that a married person acted on the command of his or her spouse. (Ord. 5057 Sec. 2, 2004; Ord. 2385 Sec. 1 (part), 1979)

10.01.190: Entrapment:

- (1) In any prosecution for a crime, it is a defense that:
 - (a) The criminal design originated in the mind of law enforcement officials, or any person acting under their direction; and
 - (b) The actor was lured or induced to commit a crime which the actor had not otherwise intended to commit.
- (2) The defense of entrapment is not established by a showing only that the law enforcement officials merely afforded the actor an opportunity to commit a crime. (Ord. 2385 Sec. 1 (part), 1979)

10.01.200: Action for Being Detained on Mercantile Establishment Premises for

Investigation - “Reasonable Grounds” as Defense: In any criminal action brought by reason of any person having been detained on or in the immediate vicinity of the premises of a mercantile establishment for the purpose of investigation or questioning as to the ownership of any merchandise, it shall be a defense of such action that the person was detained in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a peace officer, by the owner of the mercantile establishment, or by the owner’s authorized employee or agent, and that such peace officer, owner, employee, or agent had reasonable grounds to believe that the person so detained was committing or attempting to commit theft or shoplifting on such premises of such merchandise. As used in this Section, “reasonable grounds” shall include, but not be limited to, knowledge that a person has concealed possession of unpurchased merchandise of a mercantile establishment, and a “reasonable time” shall mean the time necessary to permit the statement, and the time necessary to examine employees and records of the mercantile establishment relative to the ownership of the merchandise. (Ord. 2385 Sec. 1 (part), 1979)

10.01.202: Arrest Without a Warrant - When Authorized: A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided below.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty one (21) years under RCW 66.44.270 or KMC 10.16.080 or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, or KMC 10.10.060 or KMC 10.10.070, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

- (a) An order has been issued of which the person has knowledge under RCW 10.99, 26.09, 26.10, 26.44.063, 26.26, 26.50, or 74.34 restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from a residence or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or
- (b) The person is eighteen (18) years or older and within the preceding four (4) hours has assaulted that person’s spouse, former spouse, or a person eighteen (18) years or older with whom the person resides or has formerly resided and the officer believes: 1) a felonious assault has occurred; 2) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or 3) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that spouses, former spouses, or other persons who reside together or formerly resided together have assaulted each other, the officer is

not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: 1) the intent to protect victims of domestic violence under RCW 10.99.010; 2) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and 3) the history of domestic violence between the persons involved.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

- (a) RCW 46.52.010, relating to duty on striking an unattended car or other property;
- (b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;
- (d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;
- (e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;
- (f) RCW 46.61.525, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed, in connection with the accident, a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 88.12.025 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the State.

(7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under Chapter 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four (24) hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1)(c) through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this Section, nothing in this Section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100(2) or (8) if the police officer acts in good faith and without malice. (Ord. 5057 Sec. 3, 2004; Ord. 3641 Sec. 1, 1995; Ord. 3473 Sec. 1, 1993; Ord. 3159 Sec. 1, 1988; Ord. 3112 Sec. 1, 1987; Ord. 3107 Sec. 1, 1987; Ord. 2914 Sec. 1, 1985; Ord. 2655 Sec. 3 (part), 1982)

10.01.204: Stopping and Detaining - When Authorized:

(1) A police officer may stop and detain a person under the following circumstances:

- (a) When he has probable cause to believe that the person he is stopping and detaining has committed, is committing or is about to commit a crime or other violation of law, ordinance or regulation;
- (b) When he has a reasonable suspicion, based upon specific, articulable facts known to him at the time, that the individual has committed, is committing or is about to commit a crime;
- (c) When he has a reasonable cause to believe that the person he is stopping and detaining is wanted and there is a warrant outstanding for his arrest; and
- (d) When he has a reasonable suspicion, based upon specific, articulable facts that the person he is stopping and detaining has information concerning a crime or has information concerning any person involved in a crime.

(2) In the event that a police officer stops and detains a person, he shall, in all cases, have the right to take any reasonable precautions to ensure his own safety or the safety of others.

(3) Should the person detained refuse to cooperate with the police officer, except for taking steps necessary to ensure his or the safety of others, the officer must, before proceeding further, inform the detainee of his authority, if he is not in uniform and has not already done so; the reason he is being detained; and the reason the officer desires the information. If the detainee is suspected of having committed, committing or being about to commit a crime, the officer will inform him of his right to remain silent.

(4) The continued detention or ultimate arrest of a detainee shall not continue longer than is reasonably necessary under the circumstances.

- (a) If a person is detained because the officer believes he is wanted, the detention shall continue no longer than reasonably necessary to determine his identity and make inquiry into the records of local police agencies, the Washington Crime Information Center, the National Crime Information Center or other source where the officer reasonably believes information of the detainee's status will be found.
 - (i) If the detainee has an outstanding warrant issued by a court of the State of Washington, the officer will arrest the person and either allow him to post bail, if authorized, or notify the jurisdiction which issued the warrant and request that they take the arrestee into custody. If the issuing jurisdiction fails or refuses to accept custody of the arrestee within a reasonable time, he shall be released.
 - (ii) If the officer learns that the detainee stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year, he shall arrest him and take him before a

judge or magistrate not later than the next judicial day and make complaint against him, under oath, setting forth the grounds for the arrest. The officer shall also notify the prosecuting attorney, as soon as practical, following the arrest.

- (b) If the detainee is sought as a witness in a criminal case which is set for trial or is under investigation by a grand jury, the police officer may detain him long enough to consult with the prosecutor or defense counsel, as the case may be, to determine whether he should be required to appear before a magistrate or judge to ensure his appearance or testimony. Should the prosecutor or defense counsel determine that the detainee's testimony is material and should it appear that he might not appear in response to a subpoena, he may, not later than the next judicial day, be brought before a judge or magistrate.
- (c) If the person is detained because there is a reasonable suspicion that he has committed, was committing or is about to commit a crime, the officer may continue the detention as long as necessary and reasonable in light of the circumstances.
- (d) If a detainee is sought because he has information concerning a crime or persons involved in a crime, the officer, after having informed him of his office and purpose, may continue the detention for a reasonable period of time in order to obtain the desired information.
 - (i) If the person detained as a material witness, states that he does not have the information desired, he shall be released; provided, that nothing herein shall preclude his being charged with a criminal violation in the event his answer is false.
 - (ii) If the person detained as a material witness refuses to give information and the police officer has probable cause to believe that the detainee is a material witness, the officer may continue his detention not longer than the next judicial day and bring him before a judge or magistrate. If the judge or magistrate determines that there is reasonable cause to believe that the person detained has information concerning a crime or the whereabouts of a person who has committed a crime, that the information is material, that the information is not privileged and that the information is reasonably necessary in the interests of justice, the court may continue the detention until such time as the detainee gives the information; or the court may recognize him on such terms and conditions as appear just and equitable. The further detention of a person shall not continue beyond the time he has given such information or stated under oath that he does not have such information. (Ord. 2655 Sec. 3 (part), 1982)

10.01.206: Citation and Notice to Appear or Arrest - Considerations: Whenever a person is arrested, except in the case of a felony, the arresting officer will normally issue a citation and notice to appear, but in considering whether he should issue such a citation and notice to appear or continue the custody of the person arrested, the officer shall consider the following factors:

- (1) Whether the person has identified himself satisfactorily;
- (2) Whether the detention appears reasonably necessary to prevent imminent harm to himself or another, injury to property, or breach of the peace;

(3) Whether the person has ties to the community reasonably sufficient to assure his appearance or whether there is substantial likelihood that he will refuse to respond to the citation; and

(4) Whether the person previously has failed to appear in response to a citation or other lawful process. (Ord. 2655 Sec. 3 (part), 1982)

10.01.210: Intoxication: No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his condition, but whenever the actual existence of any particular mental state is a necessary element to constitute a particular species or degree of crime, the fact of his intoxication may be taken into consideration in determining such mental state. (Ord. 2385 Sec. 1 (part), 1979)

10.01.230: Criminal Attempt:

(1) A person is guilty of an attempt to commit a crime if, with intent to commit a specific crime, he does an act which is a substantial step toward the commission of that crime.

(2) If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution for such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.

(3) An attempt to commit a crime is a:

(a) Gross misdemeanor when the crime attempted is a Class C felony;

(b) Misdemeanor when the crime attempted is a gross misdemeanor or misdemeanor. (Ord. 5057 Sec. 4, 2004; Ord. 2385 Sec. 1 (part), 1979)

10.01.240: Criminal Solicitation:

(1) A person is guilty of criminal solicitation when, with intent to promote or facilitate the commission of a crime, he offers to give or gives money or other thing of value to another to engage in specific conduct which would constitute such crime or which would establish complicity of such other person in its commission or attempted commission had such crime been attempted or committed.

(2) Criminal solicitation shall be punished in the same manner as criminal attempt in Section 10.01.230. (Ord. 2385 Sec. 1 (part), 1979)

10.01.250: Criminal Conspiracy:

(1) A person is guilty of criminal conspiracy when, with intent that conduct constituting a crime be performed, he agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them takes a substantial step in pursuance of such agreement.

(2) It shall not be a defense to criminal conspiracy that the person or persons with whom the accused is alleged to have conspired:

(a) Has not been prosecuted or convicted; or

(b) Has been convicted of a different offense; or

(c) Is not amenable to justice; or

(d) Has been acquitted; or

(e) Lacked the capacity to commit an offense.

(3) Criminal conspiracy is a:

(a) Gross misdemeanor when the object of the conspiratorial agreement is a Class C felony;

- (b) Misdemeanor when the object of the conspiratorial agreement is a gross misdemeanor or misdemeanor. (Ord. 5057 Sec. 5, 2004: Ord. 2385 Sec. 1 (part), 1979)

10.01.260: Seizure of Property:

(1) The following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony. No property may be forfeited under this Section until after there has been a superior court conviction of the owner of the property for the felony in connection with which the property was employed, furnished, or acquired.

A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if at the time the security interest was created, the secured party neither had knowledge of nor consented to the commission of the felony.

(2) Personal property subject to forfeiture under this Chapter may be seized by the Kennewick Police Department upon process issued by any superior court having jurisdiction over the property. Seizure of personal property without process may be made if:

- (a) The seizure is incident to an arrest or a search under a search warrant;
- (b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding;
- (c) A law enforcement officer has probable cause to believe that the property is directly dangerous to health or safety; or
- (d) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in the commission of a felony.

(3) In the event of seizure pursuant to this Section, proceedings for forfeiture shall be deemed commenced by the seizure. The Police Department shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. The notice of seizure may be served by any method authorized by law or court rule including, but not limited to, service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen-day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with Chapter 62A.9 RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(4) If no person notifies the Police Department in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this Section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(5) If a person notifies the Police Department in writing of the person's claim of ownership or right to possession of the seized property within forty-five days of the seizure, the Department shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the Chief of Police or his designee, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person

seeking removal of the matter must serve process on the City and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the Police Department of his ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. Any appeal from the hearing before the Chief of Police or his designee shall be to the Benton County Superior Court in accord with Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. The Department shall promptly return the property to the claimant upon a determination by the Chief or a court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(6) When property is forfeited under this Chapter, after satisfying any court-ordered victim restitution, the Police Department may:

- (a) Retain it for official use or upon application by another law enforcement agency release such property to such agency for the exclusive use of enforcing the criminal law;
- (b) Sell that which is not required to be destroyed by law and which is not harmful to the public.

(7) By January 31st of each year, the City Treasurer shall remit to the state treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the public safety and education account.

- (a) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.
- (b) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. The Police Department may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.
- (c) Retained property and net proceeds not required to be paid to the state treasurer, or otherwise required to be spent under this Section, shall be retained by the Police Department exclusively for the expansion and improvement of law enforcement activity. Money retained under this Section may not be used to supplant preexisting funding sources. (Ord. 5264 Sec. 2, 2009; Ord. 3474 Sec. 1, 1993)

10.01.270: RCW Section Adopted - Seizure and Forfeiture Under the Uniform Controlled Substances Act: Section 69.50.505 of the Revised Code of Washington pertaining to seizure and forfeiture of real and personal property and expenditure of any funds resulting from forfeiture as now or hereafter amended, is hereby adopted by reference as a

part of this Chapter in all respects as though this Section was set forth herein in full. (Ord. 3911 Sec. 1, 2000)

10.01.280: RCW Section Adopted - Seizure and Forfeiture - Prostitution: Section 9A.88.150 of the Revised Code of Washington pertaining to seizure and forfeiture of real and personal property and expenditure of any funds resulting from forfeiture as now or hereafter amended, is hereby adopted by reference as a part of this Chapter in all respects as though this Section was set forth herein in full. (Ord. 5600 Sec. 2, 2015)

10.01.290: RCW Section Adopted – Definitions Pertaining to Domestic Violence: Subsections 3, 4, and 5 of Section 10.99.020 of the Revised Code of Washington pertaining to the definitions of the terms “Family or Household Members”, “Dating Relationship”, and “Domestic Violence”, as now or hereafter amended, is hereby adopted by reference as a part of this Chapter in all respects as though these Subsections were set forth herein in full.

10.01.300: RCW Section Adopted – Domestic Violence Predicate Offense Definition: Subsection 4 of Section 9A.36.041 of the Revised Code of Washington pertaining to the definition of the term “Family or Household Members” for purposes of Revised Code of Washington 9A.36.041(3) as now or hereafter amended, is hereby adopted by reference as a part of this Chapter in all respects as though this Subsection was set forth herein in full.

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CHAPTER 10.10

OFFENSES AGAINST PROPERTY

SECTION:

- 10.10.010: Definitions
- 10.10.015: Theft - Definition, Defense
- 10.10.020: Theft
- 10.10.030: Unlawful Issuance of Checks or Drafts
- 10.10.040: Possession of Stolen Property
- 10.10.050: Obscuring Identity of a Machine
- 10.10.060: Criminal Trespass in the First Degree
- 10.10.070: Criminal Trespass in the Second Degree
- 10.10.080: Criminal Trespass Defenses to Any Prosecution Under Sections 10.10.060 and 10.10.070
- 10.10.090: Vehicle Prowling
- 10.10.110: Destruction or Removal of Property
- 10.10.120: Injury or Removal of Street Signs
- 10.10.130: Defacing or Removing Official Notices
- 10.10.140: Reckless Burning
- 10.10.150: Frauds on Innkeeper
- 10.10.160: Computer Trespass
- 10.10.170: Wrongful Removal or Possession of Shopping Carts
- 10.10.190: Theft of Rental, Leased, or Lease-Purchased Property
- 10.10.200: Depositing Trash in Charitable Receptacles
- 10.10.210: Making or Having Burglary Tools

10.10.010: Definitions: The following definitions are applicable in this chapter unless the context otherwise requires.

(1) “Appropriate Lost or Misdelivered Property or Services” means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(2) “By Color or Aid of Deception” means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(3) “Credit Card” means any instrument or device, whether incomplete, revoked, or expired, whether known as a credit card, credit plate, charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services, or anything else of value, including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guarantee by the issuer;

(4) “Deception” occurs when an actor knowingly:

(a) Creates or confirms another’s false impression which the actor knows to be false; or

(b) Fails to correct another’s impression which the actor previously has created or confirmed; or

- (c) Prevents another from acquiring information material to the disposition of the property involved; or
- (d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or
- (e) Promises performance which the actor does not intend to perform or knows will not be performed.
- (5) “Deprive” in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;
- (6) “Obtain Control Over” in addition to its common meaning, means:
 - (a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or
 - (b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;
- (7) “Wrongfully Obtains” or “Exerts Unauthorized Control” means:
 - (a) To take the property or services of another; or
 - (b) Having any property or services in one’s possession, custody or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody or control, to secrete, withhold, or appropriate the same to his own use or to the use of any person other than the true owner or person entitled thereto;
- (8) “Owner” means a person, other than the actor, who has possession of, or any other interest in, the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;
- (9) “Property of another” means property in which the actor possesses anything less than exclusive ownership;
- (10) “Receive” includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;
- (11) “Services” includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;
- (12) “Stolen” means obtained by theft, robbery, or extortion;
- (13) Value.
 - (a) “Value” means the market value, actual value, or replacement value of the property or services at the time and in the approximate area of the criminal act;
 - (b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:
 - (i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;
 - (ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon,

- the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;
- (iii) The value of any other instrument that creates, releases, discharges; or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.
 - (c) Whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a criminal episode or common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved. For the purposes of this subsection, “criminal episode” means a series of thefts committed by the same person from one or more mercantile establishments on three or more occasions within a five-day period;
 - (d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved;
 - (e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding seven hundred fifty dollars (\$750.00).
 - (14) “Premises” includes any building, dwelling, structure used for commercial aquaculture, or any real property;
 - (15) “Enter.” The word “enter” when constituting an element or part of a crime shall include the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used or intended to be used to threaten or intimidate a person or to detach or remove property;
 - (16) “Enters or Remains Unlawfully.” A person “enters or remains unlawfully” in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain.

A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner.

Land that is used for commercial aquaculture or for growing an agricultural crop or crops, other than timber, is not unimproved and apparently unused land if a crop or any other sign of cultivation is clearly visible or if notice is given in a conspicuous manner. Similarly, a field fenced in any manner is not unimproved and apparently unused land. A license or privilege to enter or remain on improved and apparently used land that is open to the public at particular times, which is neither fenced nor otherwise enclosed in a manner to exclude intruders, is not a license or privilege to enter or remain on the land at other times if notice of prohibited times of entry is posted in a conspicuous manner.

(17) “Data” means a representation of information, knowledge, facts, concepts, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a computer;

(18) “Computer Program” means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data;

(19) “Access” means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, directly or by electronic means;

(20) “Shopping Cart” means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind; and

(21) “Parking Area” means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle.

(22) “Physical Damage,” in addition to its ordinary meaning, shall also include any diminution in the value of any property as the consequence of an act and the cost to repair any physical damage.

(Ord. 5438 Sec. 1, 2012; Ord. 5235 Sec. 1, 2008; Ord. 5057 Sec. 12, 2004; Ord. 2934 Sec. 1, 1985; Ord. 2849 Sec. 1, 1984; Ord. 2841 Sec. 1, 1984; Ord. 2655 Sec. 2, 1982; Ord. 2401 Sec. 1, 1979; Ord. 2089 Sec. 2, 1977)

10.10.015: Theft - Definition, Defense:

(1) “Theft” means:

(a) To wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or

(b) By color or aid of deception to obtain control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or

(c) To appropriate lost or misdelivered property or services of another, or the value thereof, with intent to deprive him of such property or services.

(2) In any prosecution for theft, it shall be a sufficient defense that the property or service was appropriated openly and avowedly under a claim of title made in good faith, even though the claim be untenable. (Ord. 2401 Sec. 2, 1979)

10.10.020: Theft: A person is guilty of theft if he commits a theft of property or services. Theft is a gross misdemeanor. (Ord. 2401 Sec. 3 (part), 1979; Ord. 2089 Sec. 2 (part), 1977)

10.10.030: Unlawful Issuance of Checks or Drafts: Any person who, with intent to defraud, makes, or draws, or utters or delivers to another person any check, or draft, on a bank or other depository, for the payment of money, knowing at the time of such drawing or delivery, that he has not sufficient funds in, or credit with, said bank or other depository, to meet said check or draft, in full upon its presentation, shall be guilty of unlawful issuance of bank check. The word “credit,” as used in this section, shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of the check or draft, and the uttering or delivering of such a check or draft to another person without such fund, or credit to meet the same, shall be prima facie evidence of an attempt to defraud. That a check or draft was returned to the payee by the bank or other depository indicating “account closed,” “NSF,” or other similar notation shall be prima facie evidence that the making, drawing, uttering, or

delivering was made knowing there was not sufficient funds or credit to meet the check or draft in full upon presentment. Unlawful issuance of a bank check is a gross misdemeanor. (Ord. 3377 Sec. 1, 1992: Ord. 2641 Sec. 12, 1981: Ord. 2401 Sec. 3 (part), 1979: Ord. 2089 Sec. 2 (part), 1977)

10.10.040: Possession of Stolen Property: It is unlawful for any person to knowingly receive, retain, possess, conceal, or dispose of stolen property, knowing that it has been stolen, and to withhold or appropriate the same to the use of any person other than the true owner, or person entitled thereto. Possessing stolen property is a gross misdemeanor. (Ord. 2401 Sec. 3 (part), 1979: Ord. 2089 Sec. 2 (part), 1977)

10.10.050: Obscuring Identity of a Machine: A person is guilty of obscuring the identity of a machine, if he knowingly:

- (1) Obscures the manufacturer's serial number, or any other distinguishing identification number or mark upon any vehicle, machine, engine, apparatus, appliance, or other device, with intent to render it unidentifiable; or
- (2) Possesses a vehicle, machine, engine, apparatus, appliance, or other device held for sale, knowing that the serial number or other identification number or mark, has been obscured.

For the purpose of this section, "obscure" means to remove, deface, cover, alter, destroy, or otherwise render unidentifiable. Obscuring the identity of a machine is a gross misdemeanor. (Ord. 2089 Sec. 2 (part), 1977)

10.10.060: Criminal Trespass in the First Degree: A person is guilty of criminal trespass in the first degree if he knowingly enters or remains unlawfully in a building. Criminal trespass in the first degree is a gross misdemeanor. (Ord. 2641 Sec. 13 (part), 1981: Ord. 2089 Sec. 2 (part), 1977)

10.10.070: Criminal Trespass in the Second Degree: A person is guilty of criminal trespass in the second degree if he knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree. Criminal trespass in the second degree is a misdemeanor. (Ord. 2641 Sec. 13 (part), 1981: Ord. 2089 Sec. 2 (part), 1977)

10.10.080: Criminal Trespass Defenses to Any Prosecution under Sections 10.10.060 and 10.10.070: It is a defense from prosecution under the provisions of Sections 10.10.060 and 10.10.070 that:

- (1) A building involved in an offense under Section 10.10.060 was abandoned; or
- (2) The premises were at the time open to members of the public, and the actor complied with all lawful conditions imposed on access to, or remaining in, the premises; or
- (3) The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him to enter or remain; or
- (4) The actor was attempting to serve legal process which includes any document required or allowed to be served upon persons or property, by any statute, rule, ordinance, regulation, or court order, excluding delivery by the mails of the United States. This defense applies only if the actor did not enter into a private residence or other building not open to the public and the entry onto the premises was reasonable and necessary for service of the legal

process. (Ord. 5057 Sec. 13, 2004: Ord. 2641 Sec. 13 (part), 1981: Ord. 2089 Sec. 2 (part), 1977)

10.10.090: Vehicle Prowling: A person is guilty of vehicle prowling if, with intent to commit a crime against a person or property therein, he enters, or remains unlawfully in, a vehicle. Vehicle prowling is a gross misdemeanor. (Ord. 2089 Sec. 2 (part), 1977)

10.10.110: Destruction ~~or Removal~~ of Property:

(1) It is unlawful for any person, knowingly and maliciously, to destroy, mutilate, deface, break, impair, write, paint or draw any inscription, figure, or mark, or in any manner injure any property of another, of any kind or character, public or private.

(2) Destruction of Property is a gross misdemeanor if the physical damage caused is in an amount exceeding \$100.00.

(3) Destruction of Property is a misdemeanor if the physical damage caused is in an amount less than \$100.00.

(4) If more than one item of property is physically damaged as a result of a common scheme or plan by a person and the physical damage to the property would, when considered separately, constitute Destruction of Property Under \$100.00, the value of the damages may be aggregated in one count. If the sum of the value of all the physical damages exceeds \$100.00, the defendant may be charged with and convicted of Destruction of Property over \$100.00., willfully and without lawful authority, to destroy, mutilate, deface, break, impair, remove, interfere with, carry away, or in any manner injure any property of another, of any kind or character, public or private. Destruction or removal of property is a gross misdemeanor if the property damaged or removed is of value exceeding \$100.00. In any event, if the value of the property is less than \$100.00, a person convicted of violating the provisions of this section shall be guilty of a misdemeanor. (Ord. 5235 Sec. 2, 2008: Ord. 2401 Sec. 3 (part), 1979: Ord. 2089 Sec. 2 (part), 1977)

10.10.120: Injury or Removal of Street Signs: It is unlawful for any person, without proper authorization, to willfully alter, remove, deface, injure, knock down, or destroy any traffic sign, street sign, traffic-control device, luminaire, street light, or any part thereof. (Ord. 5438 Sec. 2, 2012: Ord. 5057 Sec. 14, 2004: Ord. 2089 Sec. 2 (part), 1977)

10.10.130: Defacing or Removing Official Notices: It is unlawful for any person not an officer or employee of the City, to remove, destroy, tear down, or deface, either in whole or in part, or to mark, or write upon, change, obliterate, or mark, or in any manner alter or change, the writing, printing, or signature, or any part of the writing, printing, or signature, upon any bulletin, legal notice, or advertisement, posted or paper writing of the City lawfully posted or placed in the City. (Ord. 2089 Sec. 2 (part), 1977)

10.10.140: Reckless Burning: A person is guilty of reckless burning if he knowingly causes a fire or explosion, whether on his own property or that of another, and thereby recklessly places a building, or other structure, or any vehicle, railway car, aircraft, or watercraft, or any hay, grain, crop, or timber, whether cut or standing, in danger of destruction or damage. Reckless burning is a gross misdemeanor. (Ord. 2089 Sec. 2 (part), 1977)

10.10.150: Frauds on Innkeeper: Every person who shall obtain any food, lodging, accommodation or transportation at any hotel, restaurant, boarding house, or lodging house, or from any common carrier without paying therefor, with intent to defraud the proprietor,

manager or operator thereof, or who shall obtain at any hotel, restaurant, boarding house, or lodging house, or from any common carrier, by color or aid of any false pretense, representation, token or writing, or who, after obtaining board, lodging, or accommodations or any transportation at any hotel, restaurant, boarding house or lodging house, or from any common carrier, shall abscond or surreptitiously remove his baggage therefrom without paying for such food, lodging, accommodation, or transportation shall be guilty of a gross misdemeanor. Frauds on Innkeeper is a gross misdemeanor if the fraud is valued at less than seventy-five dollars. (Ord. 5057 Sec. 15, 2004; Ord. 2401 Sec. 4, 1979)

10.10.160: Computer Trespass:

(1) A person is guilty of computer trespass if, without lawful authorization, he intentionally gains access to a computer system or electronic data base.

(2) A person who, in the commission of a computer trespass, commits any other crime may be punished for that other crime as well as for the computer trespass and may be prosecuted for each crime separately.

(3) Computer trespass is a gross misdemeanor. (Ord. 2849 Sec. 2, 1984)

10.10.170: Wrongful Removal or Possession of Shopping Carts:

(1) It is unlawful to do any of the following acts, if a shopping cart has a permanently affixed sign as provided in subsection (2) of this section:

- (a) To remove a shopping cart from the parking area of a retail establishment with the intent to deprive the owner of the shopping cart the use of the cart; or
- (b) To be in possession of any shopping cart that has been removed from the parking area of a retail establishment with the intent to deprive the owner of the shopping cart the use of the cart.

(2) This section shall apply only when a shopping cart:

- (a) Has a sign permanently affixed to it that identifies the owner of the cart or the retailer, or both;
- (b) Notifies the public of the procedure to be utilized for authorized removal of the cart from the premises;
- (c) Notifies the public that the unauthorized removal of the cart from the premises or parking area of the retail establishment, or the unauthorized possession of the cart, is unlawful; and
- (d) Lists a telephone number or address for returning carts removed from the premises or parking area to the owner or retailer.

(3) Any person who violates any provision of this section is guilty of a misdemeanor. (Ord. 2934 Sec. 1, 1985)

10.10.190: Theft of Rental, Leased, or Lease-Purchased Property:

(1) A person who, with intent to deprive the owner or owner's agent, wrongfully obtains, or exerts unauthorized control over, or by color or aid of deception gains control of personal property that is rented or leased to the person, is guilty of theft of rental, leased, or lease-purchased property.

(2) The finder of fact may presume intent to deprive if the finder of fact finds either of the following:

- (a) That the person who rented or leased the property failed to return or make arrangements acceptable to the owner of the property or the owner's agent to return the property to the owner or the owner's agent within seventy-two hours

- after receipt of proper notice following the due date of the rental, lease, or lease-purchase agreement; or
- (b) That the renter or lessee presented identification to the owner or the owner's agent that was materially false, fictitious, or not current with respect to name, address, place of employment, or other appropriate items.
 - (3) As used in subsection (2) of this section, "proper notice" consists of a written demand by the owner or owner's agent made after the due date of the rental, lease, or lease-purchase period, mailed by certified or registered mail to the renter or lessee at:
 - (a) The address the renter or lessee gave when the contract was made; or
 - (b) The renter or lessee's last known address if later furnished in writing by the renter, lessee, or the agent of the renter or lessee.
 - (4) The replacement value of the property obtained must be utilized in determining the amount involved in the theft of rental, leased, or lease-purchased property.
 - (5) Theft of rental, leased, or lease-purchased property is a gross misdemeanor if the rental, leased, or lease-purchased property is valued at less than seven hundred fifty dollars (\$750.00).
 - (6) This section applies to rental agreements that provide that the renter may return the property any time within the rental period and pay only for the time the renter actually retained the property, in addition to any minimum rental fee, to lease agreements, and to lease-purchase agreements as defined under RCW 63.19.010. This section does not apply to rental or leasing of real property under the residential landlord-tenant act, Chapter 59.18 RCW. (Ord. 5438 Sec. 3, 2012; Ord. 5057 Sec. 17, 2004; Ord. 2964 Sec. 1, 1986)

10.10.200: Depositing Trash in Charitable Receptacles:

- (1) It is unlawful for any person to throw, drop, deposit, discard or otherwise dispose of any trash, including, but not limited to items that have deteriorated to the extent that they are no longer of monetary value or of use for the purpose they are intended, garbage, including any organic matter, or litter in or around a clearly marked receptacle provided by a charitable organization for donations of clothing, property or other things of monetary value to that organization.
- (2) Charitable organizations must post a clearly visible notice on the donation receptacles warning of the existence and content of this section and the penalties for violation of its provisions, as well as a general identification of the items which are appropriate to be deposited in the receptacle.
- (3) Any person violating the provisions of this section shall be guilty of a misdemeanor. (Ord. 5057 Sec. 18, 2004; Ord. 3109 Sec. 1, 1987)

10.10.210: Making or Having Burglary Tools:

- (1) Every person who shall make or mend or cause to be made or mended, or have in his possession, any engine, machine, tool, false key, pick lock, bit, nippers, or implement adapted, designed, or commonly used for the commission of burglary under circumstances evincing an intent to use or employ, or allow the same to be used or employed in the commission of a burglary, or knowing that the same is intended to be so used, shall be guilty of making or having burglary tools.
- (2) Making or having burglary tools is a gross misdemeanor. (Ord. 5117 Sec. 1, 2005)

CHAPTER 18.09

DEFINITIONS

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18.09.2280: Zone
18.09.2290: Zoning

18.09.010: Definitions Generally: The purpose of the definitions provided below is to define those words and terms that have a specialized meaning and/or may be used in an unfamiliar way for the purposes of this title. In addition, the following definitions, where deemed necessary, include examples or clarifications that will assist in the understanding of the terms and in the application and enforcement of the zoning code. The following definitions shall pertain to the regulations, processes, and standards contained within this Title only. Definitions found in other adopted titles, ordinances, resolutions, codes, and/or

regulations shall be subordinate in meaning to the definitions contained herein in applying the provisions of this title.

For the purposes of this title, certain words are defined as follows: Words in the present tense include the future tense; words in the singular shall include the plural; the word “shall” is mandatory; the word “should” indicates that which is recommended but not required; the word “may” is permissive. All words in this Title shall have their plain and ordinary meaning unless otherwise defined herein below. (Ord. 5180 Sec. 1, 2007)

18.09.015: Academy: “Academy” means a school for a special field of study such as dance, art and martial arts. (Ord. 5180 Sec. 1, 2007)

18.09.020: Accessory: “Accessory” means a use, activity, structure or part of a structure that is subordinate and incidental to the main activity or structure on the subject property. (Ord. 5180 Sec. 1, 2007)

18.09.030: Accessory Dwelling Unit (ADU), Attached: “Accessory Dwelling Unit (ADU) Attached,” means a second dwelling unit added to or created within an existing single-family dwelling to use as a completely independent or semi-independent unit with provisions for cooking, eating, sanitation and sleeping. Attached for purposes of “attached” ADUs means the accessory dwelling unit has one or more vertical and/or horizontal wall(s) in common with, or attached to the principal dwelling unit. Connected by a breezeway or similar structure does not constitute an attached structure. (Ord. 5527 Sec. 1, 2013; Ord. 5180 Sec. 1, 2007)

18.09.035: Accessory Dwelling Unit (ADU), Detached: “Accessory Dwelling Unit (ADU), Detached” means a freestanding ADU that is not attached or physically connected to the principal dwelling unit. (Ord. 5527 Sec. 2, 2013)

18.09.040: Accessory Structure: “Accessory Structure” means a subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure and will not create a nuisance or hazard. (Ord. 5180 Sec. 1, 2007)

18.09.050: Accessory Use: “Accessory Use” means a use that is located on the same lot and incidental to a principal use. (Ord. 5180 Sec. 1, 2007)

18.09.060: Adjacent: “Adjacent” means a lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land. Properties separated by public rights-of-ways are not considered adjacent. (Ord. 5180 Sec. 1, 2007)

18.09.070: Adult Concessions: “Adult Concessions” for the purposes of regulation, Adult Concessions are divided into two subcategories: (1) Adult Entertainment, and (2) Adult Retail for the purpose of zone assignments in the General Code, Section (18.09).

“Adult Concessions” means any activity regulated under Chapter 6.35, but is not limited to:

- (1) Adult Entertainment:

- (a) "Adult hotel or motel" is a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter, depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" or where rooms are routinely let for less than one day or which advertises or holds itself out as specializing in sexual activity;
- (b) "Adult motion picture theater" means an enclosed or drive-in theater with a capacity of 10 or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein;
- (c) "Adult mini theater" means an enclosed or drive-in theater used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein;
- (d) "Adult panorama theater or arcade" means any place to which the public is permitted or invited and where coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe "specified sexual activities" or "specified anatomical areas."
- (e) "Artist - body painting studio" means an establishment or business which provides the services of applying paint or other substance whether transparent or nontransparent to or on the human body when such body is wholly or partially nude;
- (f) "Live Adult Entertainment Establishment" means any building or portion of a building wherein any employee or entertainer is unclothed or in such attire, clothing or costume as to expose to view any specified anatomical areas and which is for the benefit of members of the adult public, or advertised for the use or benefit of members of the adult public.
- (g) "Specified sexual activities" means:
 - (i) Human genitals in a state of sexual stimulation or arousal;
 - (ii) Acts of human masturbation, sexual intercourse, or sodomy;
 - (iii) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
- (h) "Specified anatomical areas" means:
 - (i) Less than completely or opaquely covered:
 - (I) Human genitals, pubic hair, vulva;
 - (II) Buttocks, anus;
 - (III) Female breasts below a point immediately above the top of the areola; and
 - (IV) Human male genitals in a discernibly turgid state, even if completely or opaquely covered.
 - (ii) "Entertainment" means any exhibition or dance of any type, pantomime, modeling or any other performance.
- (2) Adult Retail:

- (a) “Adult Bookstore” means an establishment having as a majority of its stock in trade, books, films, photographs, devices, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to “specified anatomical areas” or “specified sexual activities” or an establishment with a segment or section devoted to the sale or display of such material;
- (b) “Adult Packages” means an establishment having as a majority of its stock in trade is, clothing, garb, costumes, novelties, videos, gift packages etc., or an establishment with a segment or section devoted to the sale or display of such material. (Ord. 5180 Sec. 1, 2007)

18.09.080: Airports or Airfields: “Airports or Airfields” means any area of land designed and set aside for the landing and takeoff of aircraft, including all necessary facilities for the housing and maintenance of aircraft. (Ord. 5180 Sec. 1, 2007)

18.09.090: Alcohol Beverage Sales (Packaged): “Alcohol Beverage Sales (Packaged)” means stores selling primarily alcohol beverages. (Ord. 5180 Sec. 1, 2007)

18.09.100: Alley: “Alley” means a public or private way permanently reserved as a secondary, but not primary, means of access to abutting property. (Ord. 5180 Sec. 1, 2007)

18.09.110: Alteration: “Alteration” means any change, addition, or modification in construction or occupancy. (Ord. 5180 Sec. 1, 2007)

18.09.120: Amateur Radio: “Amateur Radio” means the non-commercial operation and use of broadcast and/or radio transmission facilities for public or private uses. No provision of this Title shall fail to conform to the limited preemption entitled Amateur Radio Preemption, 101 FCC 2nd 952 (1985) - issued by the Federal Communication Commission. (Ord. 5180 Sec. 1, 2007)

18.09.130: Antenna: “Antenna” means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building. (Ord. 5180 Sec. 1, 2007)

18.09.140: Aquifer: “Aquifer” means a water bearing layer of permeable materials such as rock, sand, or gravel. (Ord. 5180 Sec. 1, 2007)

18.09.145: Art Gallery: An establishment or other private or public place intended primarily for art exhibitions where people may view and/or purchase paintings, sculptures, or other works of art. (Ord. 5461 Sec. 3, 2012)

18.09.150: Automobile Oriented Use: “Automobile Oriented Use” means any use which is primarily intended exclusively to serve customers while remaining within their automobile, including, but not limited to, car washes, lube centers, coffee stands, and drive-through restaurants. (Ord. 5180 Sec. 1, 2007)

18.09.160: Automobile Wrecking Yard: “Automobile Wrecking Yard” means a secure lot used for the purpose of dismantling used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of three or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima facie evidence of an automobile wrecking yard. (Ord. 5180 Sec. 1, 2007)

18.09.170: Available Public Facilities: “Available Public Facilities” means that facilities or services are in place or that a financial commitment has been made to provide the facilities or services within a specified time. In the case of transportation, the specified time is six years from the time of development. (Ord. 5180 Sec. 1, 2007)

18.09.180: Banks and Financial Institutions: “Banks and Financial Institutions” means those businesses engaged in the provision of financial services including the provisions of financial services for individuals and corporations, such as banks, credit unions, saving and loans, mortgage and brokerage agencies, and saving and investment consultants. Provision of drive-through services may be allowed consistent with traffic safety concerns. (Ord. 5180 Sec. 1, 2007)

18.09.190: Barbers and Beauty Shops: “Barbers and Beauty Shops” means those businesses operated by a state licensed barber or beautician, which provide personal hygiene services to individuals including hair care, manicures, and pedicures. Other personal care services allowed by state license may be offered. Incidental sale of hair and beauty products is allowed. (Ord. 5180 Sec. 1, 2007)

18.09.200: Bars and Taverns: “Bars and Taverns” means any premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded therefrom by law. It should not mean premises wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and the sale of said beverages comprises less than 25 percent of the gross receipts. (Ord. 5180 Sec. 1, 2007)

18.09.210: Basement: “Basement” means that portion of a building that is partly or completely below grade as defined by the International Building Code (IBC) current version. (Ord. 5180 Sec. 1, 2007)

18.09.212: Battery Charging Station: “Battery Charging Station” means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540. (Ord. 5571 Sec. 1, 2014)

18.09.215: Battery Exchange Station: “Battery Exchange Station” means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with the rules adopted under RCW 19.27.540. (Ord. 5571 Sec. 2, 2014)

18.09.220: Bed and Breakfast: “Bed and Breakfast” is a single-family structure with five or less available rooms for rent, common dining facilities, and duration of stay for guests of less than 30 nights. (Ord. 5180 Sec. 1, 2007)

18.09.230: Best Management Practices: “Best Management Practices,” means a physical, structural, or managerial practice which has gained general acceptance for its ability to prevent or reduce environmental impacts. (Ord. 5180 Sec. 1, 2007)

18.09.240: Block and Block Front:

(1) “Block” means a group of lots, tracts, or parcels within well-defined and fixed boundaries.

(2) “Block Front” means that portion of a block along a single street frontage but usually not more than 600 feet long. (Ord. 5180 Sec. 1, 2007)

18.09.260: Boarding House: “Boarding House” means an establishment with lodging for five or more persons where meals are regularly prepared and served for compensation and where food is placed on the table family style, without service or ordering of individual portions from a menu. (Ord. 5180 Sec. 1, 2007)

18.09.270: Boat Building and Repair (Commercial): “Boat Building and Repair (Commercial)” means any business established for the purposes of building and repairing boats. Building and repair of a single boat for use of the property owner, renter, or lessee shall not be considered commercial boat building and repair. (Ord. 5180 Sec. 1, 2007)

18.09.280: Boat Marinas: “Boat marinas” means those facilities established for the purpose of providing rental slips and storage for commercial and pleasure marine craft. Incidental uses allowed at a marina facility may include fuel sales, marine sewage disposal, facility management offices, and meeting spaces. (Ord. 5180 Sec. 1, 2007)

18.09.285: Brewpub: “Brewpub” means a restaurant-brewery that sells 25% or more of its beer on site. The beer is brewed primarily for sale in the on-site restaurant or bar. (Ord. 5541 Sec. 1, 2014)

18.09.287: Brewery, Micro: “Brewery, Micro” means a brewery that produces less than 15,000 barrels of beer per year with 75% or more of its beer sold off-site. Micro breweries can sell directly to the public or to either a wholesaler or retailer. (Ord. 5541 Sec. 2, 2014)

18.09.290: Buffer or Buffer Zone: “Buffer or Buffer Zone” means a neutral area between two areas of concern of sufficient width and quality to ensure that activities on one property do not negatively impact the other. (Ord. 5180 Sec. 1, 2007)

18.09.300: Building: “Building” means any structure used or intended for the supporting or sheltering any use or occupancy (International Building Code (IBC) current edition). When a use is required to be within a building, or where special authority granted pursuant to this Title requires that a use shall be entirely within an enclosed building, then the term “building” means one so designed and constructed that all exterior walls of the structure

shall be solid from the ground to the roof line, and shall contain no openings except for windows and doors which are designed so that they may be closed, and required exhaust and ventilation ducting. (Ord. 5180 Sec. 1, 2007)

18.09.310: Building Official: “Building Official” means a duly appointed officer of the City of Kennewick who administers and enforces the Kennewick Municipal Code Title 15 (KMC), International Building Code (IBC), current version, and other relevant codes. (Ord. 5180 Sec. 1, 2007)

18.09.320: Building Line, Front: “Building Line, Front” means the line, parallel to the property line, which passes through the point of the principal building nearest the front lot line. (Ord. 5180 Sec. 1, 2007)

18.09.330: Bus Stations and Terminals: “Bus Stations and Terminals” means those public and private stations and terminals which serve the regional transportation needs of the community, including accessory uses such as cafes, gift stores and lockers, intended for the use of travelers. Transit stops are not considered bus stations and terminals. (Ord. 5180 Sec. 1, 2007)

18.09.340: Campground: “Campground” means an area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character. (Ord. 5180 Sec. 1, 2007)

18.09.345: Cargo Container: See KMC 18.09.2095, Transportable Unit. (Ord. 5557 Sec. 1, 2014)

18.09.350: Carport: “Carport” means a covered space for the housing of vehicles, boats, trailers, etc., and enclosed on no more than two (2) sides. (Ord. 5180 Sec. 1, 2007)

18.09.360: Car Wash: “Car Wash” means a drive through facility; automated, attended or coin operated, for the purposes of washing vehicles. (Ord. 5180 Sec. 1, 2007)

18.09.370: Cemetery: “Cemetery” means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbarium, crematories, mausoleums, and mortuaries when operated in conjunction within the boundaries of such cemetery. (Ord. 5180 Sec. 1, 2007)

18.09.380: Church or Place of Religious Worship: “Church or Place of Religious Worship” means a building or buildings intended primarily for public religious worship including ancillary activity and improvements such as schools providing part-time religious education in association with religious services, assembly rooms, kitchen, reading room, recreation hall and may include a residence for church staff. For the purposes of this title, schools being operated for primarily nonreligious education and those portions of churches or places of religious worship which house such schools shall not be considered churches or places of religious worship. (Ord. 5180 Sec. 1, 2007)

18.09.390: Clearing: “Clearing” means the destruction or removal of vegetation, ground cover, shrubs and trees, including, but not limited to, root material removal and/or topsoil removal. (Ord. 5180 Sec. 1, 2007)

18.09.400: Clinic: “Clinic” means a building designed and used for the diagnosis and treatment of human outpatients excluding overnight care facilities. (Ord. 5180 Sec. 1, 2007)

18.09.410: Closed Record Appeal: “Closed Record Appeal” means an administrative appeal on the record following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed. (Ord. 5180 Sec. 1, 2007)

18.09.420: Combustible: “Combustible” means a material with a flashpoint of 100° Fahrenheit to 1,100° Fahrenheit. (Ord. 5180 Sec. 1, 2007)

18.09.430: Commercial Vehicle: “Commercial Vehicle” means any vehicle, the principal use of which is the transportation of commodities, merchandise, tools, spare parts, produce, freight, animals, or passengers for hire. (Ord. 5180 Sec. 1, 2007)

18.09.440: Communication Relay or Transmission Facilities: “Communication Relay or Transmission Facilities” means telephone, telegraph, television, radio, cable, commercial broadcasting, microwave, transmission or retransmission facilities and substations, and any other communication conveyance for commercial purposes. (Ord. 5180 Sec. 1, 2007)

18.09.450: Community Center: “Community Center” means an assembly place, structure, area, or other facility used for and providing fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community. (Ord. 5180 Sec. 1, 2007)

18.09.460: Comparable Uses: “Comparable Uses” means a land use that is equivalent or similar to permitted uses within a given zoning district. (Ord. 5180 Sec. 1, 2007)

18.09.470: Comprehensive Plan: “Comprehensive Plan” means the Comprehensive Plan of the City of Kennewick, including all adopted sub-area plans, as may be amended. (Ord. 5180 Sec. 1, 2007)

18.09.480: Condominium: “Condominium” means an estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building, such as an apartment and may include a separate interest in other portions of such real property. (Ord. 5180 Sec. 1, 2007)

18.09.490: Construction Yard: “Construction Yard” means a facility for the storage of construction related materials and equipment. (Ord. 5180 Sec. 1, 2007)

18.09.500: Convenience Store: “Convenience Store” means any commercial establishment offering for sale pre-packaged food products, including limited on-site food preparation,

household items, and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet. (Ord. 5180 Sec. 1, 2007)

18.09.510: Critical Areas: “Critical Areas” means areas which including wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas such as unstable slopes. (Ord. 5180 Sec. 1, 2007)

18.09.520: Day Care Center: “Day Care Center” means an agency licensed by the State which regularly provides care for thirteen (13) or more children during part of the twenty-four (24) hour day. (Ord. 5461 Sec. 1, 2012; Ord. 5180 Sec. 1, 2007)

18.09.530: Density: “Density” means a measure of the intensity of development, generally expressed in terms of dwelling units per acre or in terms of population (i.e., people per acre). (Ord. 5180 Sec. 1, 2007)

18.09.540: Development: “Development” means any change in use, enhancement of use, or extension of the use of the land, including, but not limited to, land disturbing activities, structural development, including construction, installation or expansion of a building or other structure; creation of impervious surfaces; subdivisions, short subdivisions and binding site plans, as defined in RCW 58.17.020 as well as redevelopment of an already developed site. (Ord. 5180 Sec. 1, 2007)

18.09.545: Distillery, Craft: “Distillery, Craft” means a distiller that produces alcoholic beverage spirits by distillation or by infusion through distillation or re-distillation to a maximum of 60,000 proof gallons or less consistent with WAC 314-28-050. (Ord. 5541 Sec. 3, 2014)

18.09.550: Domestic Water Systems: “Domestic Water Systems: means potable water, supply infrastructure and source as provided to customers and others who place anticipated and approved demands on the system. (Ord. 5180 Sec. 1, 2007)

18.09.560: Drainage: “Drainage” means the collection, conveyance, containment, including retention and detention, and/or discharge of surface and stormwater runoff. (Ord. 5180 Sec. 1, 2007)

18.09.570: Drainage Control: “Drainage Control” means a pipe, swale, natural feature or manmade improvement for the purpose of carrying and/or retaining drainage. (Ord. 5180 Sec. 1, 2007)

18.09.580: Dry Cleaners and Laundries: “Dry Cleaners and Laundries” means facilities which provide services for the cleaning of clothing and household items. Laundries include coin-operated laundries. (Ord. 5180 Sec. 1, 2007)

18.09.590: Dwelling Unit: “Dwelling Unit” means one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping. (Ord. 5180 Sec. 1, 2007)

18.09.592: Dwelling, Attached Zero Lot Line: “Dwelling, Attached Zero Lot Line” or “duplex zero lot line” means a single-family dwelling on its own lot, which shares a common wall on a side lot line with a similar adjoining dwelling on a separate parcel. (Ord. 5365 Sec. 5, 2011)

18.09.594: Dwelling, Detached Zero Lot Line: “Dwelling, Detached Zero Lot Line” means a detached single-family dwelling, on its own lot, with one wall built to one side lot line and provided with easements to benefit the adjacent zero lot line parcel. (Ord. 5365 Sec. 6, 2011)

18.09.600: Dwelling, Multi-Family: “Dwelling, Multi-Family” means a building used for occupancy by two or more families living independently of each other. (Ord. 5180 Sec. 1, 2007)

18.09.605: Dwelling, Single-Family Conventional: “Dwelling, Single-Family Conventional” means a single-family dwelling, on its own lot, separated from adjoining lots and generally in conformance with residential zoning. (Ord. 5365 Sec. 7, 2011)

18.09.610: Dwelling, Single-Family Detached: “Dwelling, Single-Family Detached” means a residential building containing not more than one dwelling unit entirely surrounded by setbacks on the same lot. (Ord. 5180 Sec. 1, 2007)

18.09.620: Easement: “Easement” means a covenant (binding agreement) which grants or restricts a specific right of use. (Ord. 5180 Sec. 1, 2007)

18.09.625: Electric Vehicle Infrastructure: “Electric Vehicle Infrastructure” means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations. (Ord. 5571 Sec. 3, 2014)

18.09.630: Essential Public Facilities: “Essential Public Facilities,” mandated by the GMA, include airports, public educational facilities, state and regional transportation facilities, state and local correctional facilities, and other facilities of statewide significance. For the purpose of this title, wastewater reuse facilities shall be considered to be essential public facilities. (Ord. 5180 Sec. 1, 2007)

18.09.640: Espresso Stands (Drive Through): “Espresso Stands (Drive Through)” means a retail business which offers primarily coffee beverages (hot or cold) and related merchandise to the traveling public. (Ord. 5180 Sec. 1, 2007)

18.09.650: Espresso Stands (Sidewalk): “Espresso Stands (Sidewalk)” means a retail business which offers primarily coffee beverages (hot or cold) and related merchandise and are established in a cart or other portable structure. (Ord. 5180 Sec. 1, 2007)

18.09.655: Event Center: “Event Center” is an area or structure that contains a social event, reception or happening which may include serving food and/or alcohol, and providing entertainment. (Ord. 5204 Sec. 19, 2007)

18.09.660: Façade: “Facade” means the exterior wall of a building exposed to public view or that wall viewed by persons not within the building. (Ord. 5180 Sec. 1, 2007)

18.09.670: Facility: “Facility” means both the physical structure or structures in which a service is provided, and the property within the parcel boundaries of its location. (Ord. 5180 Sec. 1, 2007)

18.09.680: Family: “Family” means one or more persons living together as a single housekeeping unit. (Ord. 5407 Sec. 1, 2012; Ord. 5180 Sec. 1, 2007)

18.09.690: Family Day Care Home: “Family Day Care Home” means a person regularly providing care during part of the twenty-four (24) hour day to six (6) or fewer children in the family abode of the person or persons under whose direct care the children are placed. (Ord. 5461 Sec. 2, 2012; Ord. 5180 Sec. 1, 2007)

18.09.710: Fence: “Fence” means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land. (Ord. 5180 Sec. 1, 2007)

18.09.720: Fire Flow: “Fire Flow” means a measure of water flow and pressure at a specific location as required or determined by the Fire Department. (Ord. 5180 Sec. 1, 2007)

18.09.730: Fire Flow Requirement: “Fire Flow Requirement” means a minimum level of water discharge at a specified location as determined by the Fire Department. (Ord. 5180 Sec. 1, 2007)

18.09.740: Flammable: “Flammable” means any combustible material, be it solid, liquid, or gaseous form as determined by the Fire Department. (Ord. 5180 Sec. 1, 2007)

18.09.750: Floor Area: “Floor Area” means gross measurement in square feet of floor on a single plane in or a part of a given structure. Such measurement is taken on the horizontal plane outside and along the exterior walls of the structure being measured. (Ord. 5180 Sec. 1, 2007)

18.09.760: Floor Area Ratio: “Floor Area Ratio” is determined by dividing the gross floor area of all buildings on a lot by the area of that lot. (Ord. 5180 Sec. 1, 2007)

18.09.770: Frontage: “Frontage” means that side of a lot abutting on a street or public or private right-of-way and ordinarily regarded as the front of the lot. (Ord. 5180 Sec. 1, 2007)

18.09.775: Functionally Disabled: “Functionally Disabled” means, with respect to a person who has a physical or mental impairment which substantially limits one or more of such person’s major life activities; has a record of having such an impairment, or being regarded

as having such an impairment. Such term does not include current, illegal use of or addiction to a controlled substance. (Ord. 5309 Sec. 1, 2010)

18.09.780: Garage, Private: “Garage, Private” means a building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repairs of a commercial or public nature. (Ord. 5180 Sec. 1, 2007)

18.09.790: Gas Station: “Gas Station” means a facility which provides fuel for automobiles. Gas stations may include limited service facilities for the provision of emergency repairs, and retail sales of auto related supplies and equipment. Facilities, which combine convenience stores and fast food, will be required to locate where those uses are permitted. (Ord. 5180 Sec. 1, 2007)

18.09.800: Geologically Hazardous Areas: “Geologically Hazardous Areas” means areas that because of the susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. (See RCW 36.70A.030) (Ord. 5180 Sec. 1, 2007)

18.09.810: Grade: “Grade” means the lowest point of elevation of the finished surface of ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building at any point around the building. (Ord. 5180 Sec. 1, 2007)

18.09.820: Grading: “Grading” means the physical manipulation of the earth's surface and/or drainage pattern in preparation for an intended use or activity. (Ord. 5180 Sec. 1, 2007)

18.09.830: Grocery Stores: “Grocery Stores” means retail stores selling primarily food and household goods. (Ord. 5180 Sec. 1, 2007)

18.09.840: Group Living: “Group Living” means living facilities for groups of unrelated individuals that include at least one person residing on the site who is responsible for supervising, managing, monitoring and/or providing care, training or treatment of residents. Descriptions of types of facilities are as follows:

(1) Type I: Any state or federally approved dwelling used as a residence for the care or rehabilitation of dependent children, the elderly, and the physically and/or mentally handicapped. Residential care homes shall provide care for six or fewer residents.

(2) Type II: Any state or federally approved facility, other than a clinic, used as a residence for the care or rehabilitation of dependent children, the elderly, and the physically and/or mentally handicapped. Residential care centers shall provide care to seven or more residents. (Ord. 5309 Sec. 2, 2010; Ord. 5180 Sec. 1, 2007)

18.09.860: Growth Management Act (GMA): “Growth Management Act (GMA)” means the Growth Management Act as enacted in 1990 and amended by the State of Washington (RCW 36.70A). (Ord. 5180 Sec. 1, 2007)

18.09.870: Habitat: “Habitat” means the location where a particular species (or identified subspecies) of plant or animal lives and its surroundings, both living and non-living. Habitat includes the presence of a group of particular environmental conditions surrounding an organism including air, water, soil, mineral elements, moisture, temperature, and topography. (Ord. 5180 Sec. 1, 2007)

18.09.880: Hardware Stores: “Hardware Stores” means retail stores which sell tools and equipment used in the building, maintenance, and repair of homes and businesses. (Ord. 5180 Sec. 1, 2007)

18.09.890: Hazardous Waste: “Hazardous Waste” means all dangerous and extremely hazardous waste as defined by RCW 70.105.010 except for moderate-risk waste. (Ord. 5180 Sec. 1, 2007)

18.09.900: Hazardous Waste Treatment and Storage Facility, Off-site: “Hazardous Waste Treatment and Storage Facility, Off-Site” means a treatment and storage facility that treats and stores waste from generators on properties other than those on which the treatment and storage facility is located. Such materials are subject to State of Washington siting and handling criteria. (Ord. 5180 Sec. 1, 2007)

18.09.910: Hazardous Waste Treatment and Storage Facility, On-site: “Hazardous Waste Treatment and Storage Facility, On-Site” means a treatment and storage facility that treats and stores waste generated on the same geographically contiguous or bordering property. Such materials are subject to State of Washington siting and handling criteria. (Ord. 5180 Sec. 1, 2007)

18.09.920: Hazardous Waste Storage: “Hazardous Waste Storage” means temporarily holding hazardous waste. (Ord. 5180 Sec. 1, 2007)

18.09.930: Hazardous Waste Treatment: “Hazardous Waste Treatment” means the physical, chemical, or biological amelioration of hazardous waste. (Ord. 5180 Sec. 1, 2007)

18.09.935: Hearing Examiner: “Hearing Examiner” means the Hearing Examiner of the City of Kennewick. (Ord. 5322 Sec. 48, 2010)

18.09.940: Height of Building: “Height of Building” means the vertical distance from the average contact ground level to the highest point of the coping of a flat roof, or the average height between the eaves and ridge of gable, hip or gambrel roofs. (Ord. 5180 Sec. 1, 2007)

18.09.950: Home Occupation: “Home Occupation” means any occupation or business carried on within a residence by the occupant thereof, which activity is clearly incidental to the use of the residence as a dwelling and does not change the residential character thereof. (Ord. 5180 Sec. 1, 2007)

18.09.960: Hospitals and Sanatoriums: “Hospitals and Sanatoriums” means any facility specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities

and services in surgery, obstetrics, and general medical practice including overnight and extended stays. (Ord. 5180 Sec. 1, 2007)

18.09.970: Hotel: “Hotel” means a facility offering transient lodging accommodations on a daily rate to the general public and may include additional services, such as restaurants, meeting rooms, and recreational facilities. (See Transient accommodations). (Ord. 5180 Sec. 1, 2007)

18.09.980: Household: “Household” means all persons who occupy a housing unit which is intended as separate living quarters and having direct access from the outside of the building or through a common hall. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements. (U.S. Department of Commerce, Bureau of the Census). (Ord. 5180 Sec. 1, 2007)

18.09.990: Impervious Surface: “Impervious Surface” means any material that substantially reduces or prevents the infiltration of stormwater into previously unimproved land, including driveways and parking areas. (Ord. 5180 Sec. 1, 2007)

18.09.1000: Industrial Park: “Industrial Park” means a facility which is designed as a coordinated environment for a variety of industrial and related activities, and shall be developed and/or controlled by a single management entity with special attention given to traffic, parking, utility needs, aesthetics, and compatibility with surrounding properties. Industrial parks shall have appropriate master plans and/or covenants, conditions, and restrictions as required. (Ord. 5180 Sec. 1, 2007)

18.09.1010: Industrial Use: “Industrial Use” means any activity that is involved in the production, processing, manufacturing, fabrication, or assembling of goods and materials, including the storage of material used in the industrial process, including warehousing, wash-down facilities, blacksmithing, welding, wholesale bakery, recycling facilities and distribution centers. (Ord. 5180 Sec. 1, 2007)

18.09.1020: Industrial Use, Heavy: “Industrial Use, Heavy” means a use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. (Ord. 5180 Sec. 1, 2007)

18.09.1030: Industrial Use, Light: “Industrial Use, Light” means a use engaged in manufacturing, typically having low impacts on the environment, in which articles are either produced, assembled, finished and/or packaged from prepared materials made at another location, or raw materials, such as pre-milled wood, paper, wool, textiles, leather, cork or semiprecious metals or stones. For the purposes of this definition, light industrial uses shall include the canning or bottling of food or beverages for human consumption using a mechanized assembly line, and printing plants. The incidental storage, sales, and distribution of products manufactured onsite shall be permitted. (Ord. 5180 Sec. 1, 2007)

18.09.1032: Infill: Infill development is the process of developing vacant or under-used parcels within existing urban areas. (Ord. 5180 Sec. 1, 2007)

18.09.1035: Infrastructure: “Infrastructure” means facilities, utilities and services needed to sustain industry, residential, and commercial activities. (Ord. 5180 Sec. 1, 2007)

18.09.1040: Intensity: “Intensity” means a measure of land use activity based on use, mass, size and impact, relative to adjacent land uses, locally and regionally. (Ord. 5180 Sec. 1, 2007)

18.09.1050: Junk: “Junk” means scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, abandoned household goods, rags, rubber, motor vehicles, and parts thereof. (Ord. 5180 Sec. 1, 2007)

18.09.1060: Junk, Auto: “Junk, auto” means any auto, truck, or other motor vehicle which is inoperative due to lack of wheels, motor, running gear, or any combination thereof. (Ord. 5180 Sec. 1, 2007)

18.09.1070: Kennel: “Kennel” means any lot or premises on which six or more dogs or cats over six months of age are kept for purposes of boarding or keeping. (Ord. 5180 Sec. 1, 2007)

18.09.1080: Laboratories for Research and Testing: “Laboratories for Research and Testing” means a location and facility, often designed and built under State and Federal regulatory oversight, where scientific inquiries and experiments are conducted. (Ord. 5180 Sec. 1, 2007)

18.09.1090: Landfill: “Landfill” means a disposal site employing an engineered method of long-term storing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day. (Ord. 5180 Sec. 1, 2007)

18.09.1095: Library: A place in which literary and artistic materials, as books and periodicals are kept for reading, referencing, or borrowing, but generally not for sale. (Ord. 5461 Sec. 4, 2012)

18.09.1100: Lock and Gunsmiths: “Lock and Gunsmiths” means retail and service business engaged in the sale and repair of locks, keys, guns, and incidental retail. (Ord. 5180 Sec. 1, 2007)

18.09.1110: Lot: “Lot” means a designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit. (Ord. 5180 Sec. 1, 2007)

18.09.1120: Lot Area: “Lot Area” means the total area enclosed within the boundary lines of a lot. (Ord. 5180 Sec. 1, 2007)

18.09.1130: Lot, Corner: “Lot, Corner” means a lot at the junction of and fronting on the intersection of two or more streets. (Ord. 5180 Sec. 1, 2007)

18.09.1140: Lot Coverage: “Lot Coverage” means the percent of ground coverage of all buildings or structures on a site measured from the outside of external walls or supporting, but not to include at grade, off-street parking lots; deck areas; terraces; swimming pools; pool deck areas; walkways; roadways; and driveways. (Ord. 5180 Sec. 1, 2007)

18.09.1150: Lot Depth: “Lot Depth” means the horizontal length of a straight line drawn from the midpoint of the front property line to the midpoint of the rear property line. (Ord. 5180 Sec. 1, 2007)

18.09.1160: Lot, Flag: “Lot, Flag” means a lot with access provided to the bulk of the lot by means of a narrow corridor. (Ord. 5180 Sec. 1, 2007)

18.09.1170: Lot, Interior: “Lot, Interior” means a lot fronting only on one street. (Ord. 5180 Sec. 1, 2007)

18.09.1180: Lot Line, Front: “Lot Line, Front” means any property line of a lot which abuts a public street, private street or dedicated vehicular access easement is considered a frontage and shall meet the minimum front yard setback requirements of this code. On a corner lot, or lot bounded by more than one public or private street or dedicated easement, the front lot line” shall be the lot line providing principal access from the adjacent street. (Ord. 5180 Sec. 1, 2007)

18.09.1190: Lot Line, Rear: “Lot Line, Rear” means the property line of a lot that is most opposite or most distant from the designated front lot line and that does not intersect any front lot line. In the case of a triangular lot, it means a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line. In the event that the front lot line is curved, then the rear property line shall be assumed to be a line tangent to the front property line at its midpoint. (Ord. 5180 Sec. 1, 2007)

18.09.1200: Lot Line, Side: “Lot Line, Side” means any lot line that is not a front or rear lot line, or any lot line that intersects a front lot line. (Ord. 5180 Sec. 1, 2007)

18.09.1210: Lot of Record: “Lot of Record” means a lot whose existence, location, and dimensions have been legally recorded or registered in a deed or a plat. (Ord. 5180 Sec. 1, 2007)

18.09.1220: Lot, Substandard: “Lot, Substandard” means a lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of this title. (Ord. 5180 Sec. 1, 2007)

18.09.1230: Lot, Through: “Lot, Through” means a lot having its front and rear yards each abutting on a street, alley, or right-of-way. (Ord. 5180 Sec. 1, 2007)

18.09.1240: Lot Width: “Lot Width” means the horizontal distance between side lot lines, measured at the required front setback line, or in an irregularly shaped lot, the dimension across the lot at the building line. (Ord. 5180 Sec. 1, 2007)

18.09.1250: Lumber Yards: “Lumber Yards” means facilities for the storage and sale, retail, and wholesale of primarily wood building products. (Ord. 5180 Sec. 1, 2007)

18.09.1255: Managing Agency: “Managing Agency” means an organization that has the capacity to organize and manage a temporary homeless encampment. A “managing agency” may be the same entity as the sponsor.

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18.09.1260: Manufactured Housing: “Manufactured Housing” means a factory assembled structure intended solely for human habitation installed on a permanent foundation with running gear removed and connected to utilities on an individual building lot and which meets the adopted minimum building code requirements of the City. (Ord. 5180 Sec. 1, 2007)

18.09.1270: Marina: “Marina” means a facility that may include areas for storing, servicing, fuelling, berthing, securing and launching of private pleasure craft, including the sale of fuel, incidental supplies, retail goods, watercraft and associated products for boat owners, crews, and guests. (Ord. 5180 Sec. 1, 2007)

18.09.1280: Master Planned Community: “Master Planned Community” means a self-contained and fully integrated development intended to provide a mix of uses to provide jobs, housing, and services to residents, including protecting critical areas and preserving significant areas in open space. (Ord. 5180 Sec. 1, 2007)

18.09.1285: Mini-Day Care Center: “Mini-Day Care Center” means a person or agency providing care during part of the twenty-four (24) hour day to twelve (12) or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven (7) through twelve (12) children in the family abode of such person or persons. (Ord. 5461 Sec. 5, 2012)

18.09.1290: Mini-Storage: “Mini-Storage” means a facility which provides storage spaces for the storage of domestic goods. Units may not be used for commercial or residential purposes. (Ord. 5407 Sec. 2, 2012; Ord. 5180 Sec. 1, 2007)

18.09.1300: Mitigation: “Mitigation” means the process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. (Ord. 5180 Sec. 1, 2007)

18.09.1310: Mixed Use: “Mixed Use” means development that combines two or more different land uses on the same lot or contiguous lots in the same zone, such as retail uses and residential uses. (Ord. 5180 Sec. 1, 2007)

18.09.1320: Mobile Home: “Mobile Home” means a factory assembled structure intended solely for human habitation and equipped with the necessary service connections and made

so as to be readily movable as a unit on its own running gear. It is without a permanent foundation. (Ord. 5180 Sec. 1, 2007)

18.09.1330: Mobile Home Park: “Mobile Home Park” means a tract of land designed and maintained under a single ownership of unified control where two or more spaces or pads are provided solely for the placement of mobile homes for residential purposes, with or without charge. (Ord. 5180 Sec. 1, 2007)

18.09.1340: Motel: “Motel” means a building or group of detached buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. (Ord. 5180 Sec. 1, 2007)

18.09.1350: Multi-Family Residential Development: “Multi-Family Residential Development” means developments containing buildings with two or more residential dwelling units on one lot. Multi-family residential developments are those that are designed and intended for residential occupancy in multi-family structures regardless of the type of building or ownership in which such use occurs. Examples include, but are not limited to, townhouses, duplexes, multiplexes, condominiums, apartment houses, boarding houses, and lodging houses. Accessory dwelling units shall not be considered multi-family residences. (Ord. 5180 Sec. 1, 2007)

18.09.1360: Multimodal: “Multimodal” means two or more modes or methods of transportation such as bicycling, driving an automobile, walking, bus transit, equestrian and pedestrian trail, or rail. (Ord. 5180 Sec. 1, 2007)

18.09.1370: Multi-Tenant Business: “Multi-Tenant Business” means one business location that involves at least two separate business license holders which are physically separated by interior or exterior building features. This definition does not include beauty, barber, and sun tanning salons or shops. (Ord. 5180 Sec. 1, 2007)

18.09.1375: Museum: An institution operated by a nonprofit organization or governmental agency as a repository of natural, scientific, historical, cultural, or literary objects of interest or works of art, and where collection of such items is systematically managed for the purpose of exhibiting them to the public. (Ord. 5461 Sec. 6, 2012)

18.09.1380: Nonconforming Structure or Use: “Nonconforming Structure or Use” means an existing structure or use that was in conformance with effective existing code at the time or annexed prior to the adoption, revision, or amendment of the comprehensive plan and/or this Title, but which now does not conform to the requirements of the comprehensive plan and/or this Title and/or to the requirements of the zoning district in which it is located. (Ord. 5180 Sec. 1, 2007)

18.09.1390: Nursery, Landscaping Material: “Nursery, Landscaping Material” means a business which offers retail and wholesale sales of landscaping materials including plant materials, gardening supplies, and building materials. Plant materials may be grown on site or purchased wholesale. (Ord. 5180 Sec. 1, 2007)

18.09.1400: Nursing Homes and Congregate Care Facilities: “Nursing Homes and Congregate Care Facilities” means those facilities which provide for the residential care of ambulatory and non-ambulatory patients, and which include assisted-living facilities. (Ord. 5180 Sec. 1, 2007)

18.09.1410: Office: “Office” means a structure that generally houses a business, government, professional, special purpose district, medical or financial institution for the non-resident needs of individuals, groups or organizations. (Ord. 5450 Sec. 1, 2012: Ord. 5180 Sec. 1, 2007)

18.09.1420: Off-Street Parking: “Off-Street Parking” means any space specifically allocated to the parking of motor vehicles that is not located within a public right-of-way, a travel lane, a service drive, or any easement for public use. (Ord. 5180 Sec. 1, 2007)

18.09.1430: Open Record Hearing: “Open Record Hearing” means a hearing, conducted by a single hearing body or officer that creates the record through testimony and submission of evidence and information. An open record hearing may be held prior to a decision on a project permit to be known as an “open record pre-decision hearing.” An open record hearing may be held on an appeal, to be known as an “open record appeal hearing,” if no open record pre-decision hearing has been held on the project permit. (Ord. 5180 Sec. 1, 2007)

18.09.1440: Open Space: “Open Space” typically implies a landscape that is primarily unimproved, such as wooded areas; parks; golf courses, trails; privately owned nature reserves; abandoned railroad lines; utility corridors; and other vacant rights-of-way. (Ord. 5180 Sec. 1, 2007)

18.09.1450: Outdoor Storage: “Outdoor Storage” means the keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles, in the same place for more than 24 hours. (Ord. 5180 Sec. 1, 2007)

18.09.1460: Overlay District: “Overlay District” means a specially designated zoning district containing additional standards and requirements, which is applied on top of an underlying zoning classification. (Ord. 5180 Sec. 1, 2007)

18.09.1470: Parcel: “Parcel” means a continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons. (Ord. 5180 Sec. 1, 2007)

18.09.1480: Parks: “Parks” means playgrounds, golf courses, recreation centers, swimming pools and similar public and private facilities consisting of open space or enclosed space developed for the use of the general public and reserved for recreational, educational, entertainment, gathering or scenic purposes. (Ord. 5180 Sec. 1, 2007)

18.09.1490: Parking, Shared: “Parking, Shared” means the development and use of parking areas on two or more separate properties for joint use by the residents or businesses on those two or more properties used for parking. (Ord. 5180 Sec. 1, 2007)

18.09.1500: Parking Space: “Parking space” means an area, which is improved, maintained and used for the sole purpose of temporarily accommodating a motor vehicle that is not in use. (Ord. 5204 Sec. 2, 2007; Ord. 5180 Sec. 1, 2007)

18.09.1505: Pawn Shop: “Pawn Shop” means an establishment engaged in the buying or selling of new or secondhand merchandise and offering loans in exchange for personal property. (Ord. 5204 Sec. 3, 2007; Ord. 5180 Sec. 1, 2007)

18.09.1510: Performance Standards: “Performance Standards” means criteria that are established and must be met before a particular use will be permitted. These measures are designed to guide development of property and include, but are not limited to, open space requirements, water and wastewater requirements, buffer zones, screening, size and height limits for buildings, noise, vibration, glare, heat, air or water contaminants, and traffic. (Ord. 5180 Sec. 1, 2007)

18.09.1515: Person with Functional Disabilities: “Person with Functional Disabilities” means a person who, because of a recognized chronic physical or mental condition, or disease, is functionally disabled to the extent of:

- (1) Needing care, supervision, or monitoring to perform activities of daily living or instrumental activities of daily living;
- (2) Needing supports to ameliorate or compensate for the effects of the functional disability so as to lead as independent a life as possible;
- (3) Having a physical or mental impairment which substantially limits one or more of such person’s major life activities;
- (4) Having a record of having such an impairment;
- (5) Being regarded as having such an impairment, but such term does not include current, illegal use of or active addiction to a controlled substance. (Ord. 5309 Sec. 4, 2010)

18.09.1517: Pet Grooming: “Pet grooming” shall mean the hygienic and cosmetic care of dogs, cats, or other domestic or partner animals. Services may include, but are not limited to, fur trimming and styling, shampooing, bathing, nail trimming and other procedures. This does not include boarding or kenneling of animals. (Ord. 5541 Sec. 4, 2014)

18.09.1520: Pharmacy, Dispensing: “Pharmacy, Dispensing” means a retail or wholesale establishment which sells drugs by prescription, and may include sales of over the counter medications and incidental health-related products. (Ord. 5180 Sec. 1, 2007)

18.09.1530: Photographic Studio: “Photographic Studio” means an establishment for the purpose of taking pictures and developing film and film-related products, including printing. May include incidental retail sales of photography-related supplies, equipment, and products. (Ord. 5180 Sec. 1, 2007)

18.09.1540: Planned Development: “Planned Development” means a development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. Planned developments may include predetermined combinations of residential, commercial and industrial uses

within the project area. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements. (See Master Planned Community Section 18.09.1280). (Ord. 5180 Sec. 1, 2007)

18.09.1550: Planning Department: “Planning Department” means the Community Planning Department of the City of Kennewick. (Ord. 5180 Sec. 1, 2007)

18.09.1555: Planning Director: “Planning Director” means the appointed Director of Kennewick’s planning staff, or his or her authorized representative, with review, decision making and other regulatory authority as specified by provisions of the Kennewick Municipal Code, including other such responsibilities and authorities, as specified by an appropriate representative of the City. (Ord. 5180 Sec. 1, 2007)

18.09.1560: Planning Commission: “Planning Commission” means the appointed members of the Planning Commission of the City of Kennewick. (Ord. 5180 Sec. 1, 2007)

18.09.1570: Plant Nursery: “Plant Nursery” means a commercial or private facility where botanical produce and/or ornamental fauna is incubated and grown either as seed stock or through the full growth cycle to harvest or sale to the public, as a wholesale concern, or for private use. (Ord. 5180 Sec. 1, 2007)

18.09.1580: Plumbing Shops and Yards: “Plumbing Shops and Yards” means facilities engaged in the wholesale and retail sale of plumbing and building supplies. (Ord. 5180 Sec. 1, 2007)

18.09.1590: Principal Use: “Principal Use” means the main use of land or structures, as distinguished from a secondary or accessory use. (Ord. 5180 Sec. 1, 2007)

18.09.1600: Printing, Publishing, and Reproduction Establishments: “Printing, Publishing, and Reproduction Establishments” means establishments for the purpose of producing printed materials, including newspapers, books and advertising material. These establishments may include self-service reproduction facilities, and include incidental sales. (Ord. 5180 Sec. 1, 2007)

18.09.1605: Prohibited Marijuana Uses: The production, processing and retail sales of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in Revised Code of Washington Chapter 69, and implementing regulations in Chapter 314-55 of the Washington Administrative Code, are each prohibited and not allowed in any zone in the City of Kennewick. (Ord. 5566 Sec. 2, 2014)

18.09.1610: Public/Quasi Public Uses: “Public/Quasi Public Uses” includes any use of land, whether publicly or privately owned, for transportation, utilities, or communication, or for the benefit of the general public, including streets, schools, libraries, fire and police stations, municipal and county buildings, powerhouses, recreational centers, parks, and cemeteries. (Ord. 5180 Sec. 1, 2007)

18.09.1620: Public Services: “Public Services” means services provided by a public agency which include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services. (See RCW 36.70A.030) (Ord. 5180 Sec. 1, 2007)

18.09.1630: Radio, Television, and Small Electronic Repair and Services: “Radio, Television, and Small Electronic Repair and Services” means service establishments which primarily provide repair and service of household appliances and consumer electronics. Incidental sales of parts and used equipment are allowed. (Ord. 5180 Sec. 1, 2007)

18.09.1640: Radio, Television Broadcasting Stations: “Radio, Television Broadcasting Stations” means facilities for the production and broadcasting of radio and television programming. (Ord. 5180 Sec. 1, 2007)

18.09.1645: Rapid Charging Station: “Rapid Charging Station” means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540. (Ord. 5571 Sec. 4, 2014)

18.09.1650: RCW: “RCW” means Revised Code of Washington. (Ord. 5180 Sec. 1, 2007)

18.09.1660: Recreation Facility: “Recreational Facility” means any development designed and intended for day use and/or overnight recreational uses, operated as a business, or as part of a business, and/or operated by a non-profit organization or public entity, including amusement parks, picnic areas, and campgrounds. (Ord. 5180 Sec. 1, 2007)

18.09.1670: Recreational Vehicle: “Recreation Vehicle” means a vehicular-type unit designed or used for temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle and which has a body width of no more than eight feet and a body length of no more than 45 feet when factory-equipped for the road. “Recreational vehicle” shall include, but not be limited to, the following:

(1) Travel Trailer. A vehicular, portable structure built on a chassis and drawn by a motorized vehicle and which is designed to be used as a temporary dwelling for travel, recreational and vacation uses;

(2) Camper. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreational, and vacation uses;

(3) Motor Home. A portable, temporary dwelling to be used for travel, recreational and vacation use constructed as an integral part of a self-propelled vehicle;

(4) Camping Trailer. A folding structure mounted on wheels and designed for travel, recreational, and vacation uses.

(5) Any structure inspected, approved, and designated as a recreational vehicle by, and bearing the insignia of the State of Washington, or any other state or federal agency having the authority to approve recreational vehicles. (Ord. 5180 Sec. 1, 2007)

18.09.1680: Recreational Vehicle Park: “Recreational Vehicle Park” means a lot or parcel of land occupied or intended for occupancy by recreational vehicles or tents for travel, recreational or vacation usage for short periods of stay subject to the provisions of this title. (Ord. 5180 Sec. 1, 2007)

18.09.1690: Recreational Vehicle Park, Seasonal: “Recreational Vehicle Park, Seasonal” means those recreational vehicle parks that are approved for stays of no more than 180 days (cumulative) within a consecutive 12-month period. (Ord. 5180 Sec. 1, 2007)

18.09.1700: Recreational Vehicle Park, Transient: “Recreational Vehicle Park, Transient” means those recreational vehicle parks approved for transient stays of not more than 30 consecutive days. These parks are “tourist-oriented” and usually have recreation and other facilities. (Ord. 5180 Sec. 1, 2007)

18.09.1710: Recycling Facilities: “Recycling Facilities” means any lot, lots, or portions thereof, or building, or structure commercially used for the storage, collection, processing, purchase, or sale of wastepaper, rags, scrap metal, or other scrap or discarded goods, materials, and machinery including junkyards and wrecking yards. Excluded from this definition shall be areas used for the storage of materials or objects accumulated by the manufacturer as an integral part of the manufacturing process, and non-commercial recycling centers or substations established for the collection of materials for transport to a commercial recycling facility. (Ord. 5180 Sec. 1, 2007)

18.09.1720: Recycling, High Intensity: “Recycling, High Intensity” means a facility that is not a junkyard and in which recoverable resources, such as newspapers, magazines, books, and other paper products, glass, metal cans, and other products are recycled, reprocessed, and treated to return such productions to a condition in which they may again be used for production. (Ord. 5180 Sec. 1, 2007)

18.09.1730: Recycling, Low Intensity: “Recycling, Low Intensity” means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items would be allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi-public areas, such as in churches and schools. (Ord. 5180 Sec. 1, 2007)

18.09.1735: Religious Organization: “Religious Organization” means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

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18.09.1740: Research and Testing Laboratory: “Research Laboratory” means a building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. (Ord. 5180 Sec. 1, 2007)

18.09.1745: Residential Care Center: “Residential Care Center” means any state or federally approved facility, other than a clinic, used as a residence for the care or rehabilitation of dependent children, the elderly, and the physically and/or mentally

handicapped. Residential care homes shall provide care to seven or more residents. (Ord. 5309 Sec. 5, 2010)

18.09.1748: Residential Care Home: “Residential Care Home” means any state or federally approved dwelling used as a residence for the care or rehabilitation of dependent children, the elderly, and the physically and/or mentally handicapped. Residential care homes shall provide care for six or fewer residents. (Ord. 5309 Sec. 6, 2010)

18.09.1750: Residential Hotels: “Residential Hotels” means hotels which provide fully furnished apartments or rooms for longer temporary stays, usually not to exceed six months, and which are located and designed consistent with hotels. For the purpose of this code, residential hotels shall be considered to be hotels. (Ord. 5180 Sec. 1, 2007)

18.09.1760: Residential Use Sign: “Residential Use Sign” means a sign displayed on the side of a residential structure or inside of a window, not more than one square foot and unilluminated. (Ord. 5180 Sec. 1, 2007)

18.09.1770: Resort: “Resort” means a facility which includes hotels or motels that serve as a destination point for visitors, and generally provides recreational facilities for persons on vacation and provides self-contained personal services customarily furnished at hotels, including the serving of meals. (Ord. 5180 Sec. 1, 2007)

18.09.1780: Restaurant: “Restaurant” means an establishment that serves food and beverages primarily to persons seated within the building, such as cafes, tea rooms, buffet diners, and diners. (Ord. 5180 Sec. 1, 2007)

18.09.1785: Restaurant, Drive-In: “Restaurant, Drive-In” means a restaurant where food or beverages are sold primarily for consumption by customers in motor vehicles. (Ord. 5180 Sec. 1, 2007)

18.09.1790: Restaurant, Fast Food: “Restaurant, Fast Food” means an establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or griddled quickly, or heated in a device such as a microwave oven, and where orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers. Fast food restaurants may include both drive-in and sit-down services. (Ord. 5180 Sec. 1, 2007)

18.09.1800: Retail Sale: “Retail Sale” means the sale of merchandise, services, or commodities for use or consumption by the immediate purchaser and not meant for resale. (Ord. 5180 Sec. 1, 2007)

18.09.1810: Retail Store: “Retail Store” means business engaging in the sale of merchandise, services, or commodities for use or consumption by the immediate purchaser and not meant for resale, including department stores, and drug stores. (Ord. 5180 Sec. 1, 2007)

18.09.1820: Right-of-Way: “Right-of-Way” means land owned by a government or an easement for a certain purpose over the land of another, used for a road, ditch, electrical transmission line, pipeline, or public facilities such as utility or transportation corridors. (Ord. 5180 Sec. 1, 2007)

18.09.1830: Road or Vehicular Rights-of-Way: “Road or Vehicular Rights-of-Way” means a specific right-of-way dedicated or conveyed for a public or private road including the adjoining area designated for road expansion or utility purposes as specified by recorded easements, recorded ownership instruments, or dedications. (Ord. 5180 Sec. 1, 2007)

18.09.1840: Road, Private: “Road, Private” means a right-of-way or easement allowing vehicular ingress and egress established as a separate tract for the benefit of certain, adjacent properties, not including private driveways. (Ord. 5180 Sec. 1, 2007)

18.09. 1850: Road, Public: “Road, Public” means all public rights-of-way reserved or dedicated for street traffic. (Ord. 5204 Sec. 4, 2007; Ord. 5180 Sec. 1, 2007)

18.09.1860: Rooming House: “Rooming House” means a building that is the primary residence of the owner and in which rooms are provided, by the owner, for compensation, to three or more adult persons not related by blood, marriage, or adoption to the owner. (Ord. 5180 Sec. 1, 2007)

18.09.1865: Rowhouses: “Rowhouse” means a single-family dwelling on its own lot, in a series of three or more similar dwellings in one structure but on separate lots, with interior units sharing common walls along both side property lines and end units sharing a common wall on one side property line, where parking is not incorporated within the dwelling unit. (Ord. 5365 Sec. 8, 2011)

18.09.1870: Sanitary Sewer Systems: “Sanitary Sewer Systems” means all facilities, including approved onsite disposal facilities, used in the collection, transmission, storage, treatment or discharge of any water borne waste, whether domestic in origin or a combination of domestic, commercial or industrial waste. (WAC 365-195-210). (Ord. 5180 Sec. 1, 2007)

18.09.1880: Satellite Dish Antenna: “Satellite Dish Antenna” means a round, parabolic antenna intended to receive signals from orbiting satellites and other sources. Non-commercial dish antennas are defined as being less than 12 feet in diameter. Commercial dish antennas are larger than 12 feet. (Ord. 5180 Sec. 1, 2007)

18.09.1890: School, Public: “School, Public” means a building whose primary use is as a facility where instruction is given to young persons to enhance their knowledge or skills, owned and operated by a public school district. (Ord. 5180 Sec. 1, 2007)

18.09.1900: School, Private or Parochial: “School, Private or Parochial” means a building whose primary use is as a facility where instruction is given to persons of any age to enhance their knowledge or skills, not including buildings where instruction is given primarily on religious matters. For the purposes of this title, buildings belonging to churches but used

primarily for the education of children ages five to 18, Monday through Friday, shall be considered schools. (Ord. 5180 Sec. 1, 2007)

18.09.1910: Screen or Screening: “Screen or Screening” means the method by which a view of one site from another adjacent site is shielded, concealed, or hidden, utilizing techniques that include fences, walls, hedges, berms, or other such sight obscuring features. (Ord. 5309 Sec. 7, 2010; Ord. 5180 Sec. 1, 2007)

18.09.1915: Second-Hand/Consignment Store: “Second Hand/Consignment Store” means retail business which sells merchandise on a consignment basis or outright. (Ord. 5204 Sec. 20, 2007)

18.09.1920: Self-Service Storage Facility: See “Mini-Storage” KMC 18.09.1290. (Ord. 5407 Sec. 3, 2012; Ord. 5180 Sec. 1, 2007)

18.09.1930: SEPA (State Environmental Policy Act): “SEPA (State Environmental Policy Act)” means the environmental requirements of the State to consider environmental factors when making permit decisions for development proposals of a significant scale. (Ord. 5180 Sec. 1, 2007)

18.09.1940: Service Station: “Service Station” means facilities and premises where the primary use is the retail supply and dispensing of motor fuels, lubricants, batteries, tires, and motor vehicle accessories, and may include the minor mechanical service and repair of motor vehicles. (Ord. 5180 Sec. 1, 2007)

18.09.1950: Setback: “Setback” means the minimum distance of a structure from the road right-of-way line or any other lot line to the nearest projection of a structure placed on the property, excluding eaves of less than 36 inches. (Ord. 5180 Sec. 1, 2007)

18.09.1960: Shopping Center: “Shopping Center” means a grouping of commercial/retail facilities on a single lot with common parking facilities. (Ord. 5180 Sec. 1, 2007)

18.09.1970: Shoreline Management Act: “Shoreline Management Act” means state rules which detail the local requirements necessary to protect the state shorelines. (RCW 90.58 and WAC 173-18-020). (Ord. 5180 Sec. 1, 2007)

18.09.1975: Shoreline Master Program: “Shoreline Master Program (SMP)” means the comprehensive use plan and related use regulations which are mandated by the Shoreline Management Act, and used by local governments to administer and enforce the permit system for shoreline management. The City’s master program includes establishment of a jurisdiction for applicability of the program for all lands within 200 feet of Kennewick. (Ord. 5180 Sec. 1, 2007)

18.09.1980: Shorelines: “Shorelines” means those lands adjacent to, and within a distance of 200 feet from the identified waterline where such waters are identified as having “State-Wide Significance.” Shorelines other than those of State-Wide Significance are locations where water and land meet, as defined by State law. (Ord. 5180 Sec. 1, 2007)

18.09.1990: Sign: “Sign” is any object, device, display, structure or part thereof, situated indoors or out which is used to identify, display, advertise, direct, or attract attention to an object, person, organization, institution, business, product, service, event, location or message by any means including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. (Ord. 5180 Sec. 1, 2007)

18.09.2000: Sign Painting and Manufacture: “Sign Painting and Manufacture” means a facility for the production and sale of signs. (Ord. 5180 Sec. 1, 2007)

18.09.2005: Single Housekeeping Unit: “Single Housekeeping Unit” means one person or two or more individuals living together sharing household responsibilities and activities which may include sharing expenses, chores, eating evening meals together and participating in recreational activities and having close social, economic, and psychological commitments to each other. (Ord. 5407 Sec. 12, 2012)

18.09.2010: Solid Waste: “Solid Waste” means all putrescible and non-putrescible solid and semi-solid wastes, including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials. (Ord. 5180 Sec. 1, 2007)

18.09.2020: Special Needs Housing: “Special Needs Housing” means all housing that is designed for 13 or more individual or family members who require supportive social services in order to live independently or semi-independently, including emergency, transitional and permanent housing. Special needs groups include, but are not limited to the homeless, elderly, AIDS victims, single parents, runaway and homeless youth, severely physically handicapped, mentally and emotionally disturbed, chronically mentally ill, developmentally disabled, farm workers (migrant labor households) and persons with substance abuse problems. (Ord. 5180 Sec. 1, 2007)

18.09.2025: Sponsor: “Sponsor” means an entity that has an agreement with the managing agency to provide basic services and support for the residents of a temporary homeless encampment and liaison with the surrounding community and joins with the managing agency in an application for a temporary homeless encampment permit. A “sponsor” may be the same entity as the managing agency.

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18.09.2030: Story: “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes. (See IBC definition). (Ord. 5180 Sec. 1, 2007)

18.09.2040: Structure: “Structure” means that which is built or constructed. A structure is an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires an approval. (Ord. 5180 Sec. 1, 2007)

18.09.2050: Subdivision: “Subdivision” means the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development. (Ord. 5180 Sec. 1, 2007)

18.09.2060: Temporary Commercial and Industrial Activities and Structures:

“Temporary Commercial and Industrial Activities and Structures” means those structures, facilities, or uses that occur on a seasonal or sporadic basis and involve the processing and/or sale of commodities such as the sale of farm produce, firewood, fireworks, Christmas trees, and temporary rock crushing activities. (Ord. 5180 Sec. 1, 2007)

18.09.2065: Temporary Homeless Encampments: “Temporary Homeless Encampment” means a group of homeless persons temporarily residing either indoors or out of doors on a site with services provided by a sponsor and supervised by a managing agency.

18.09.2070: Temporary Use: “Temporary Use” means a use, intended for limited duration, to be located in a zoning district permitting or not permitting such use, and not continuing a nonconforming use or building. (Ord. 5180 Sec. 1, 2007)

18.09.2080: Tower: “Tower” means a structure situated on a non-residential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for dispatch communications. (Ord. 5180 Sec. 1, 2007)

18.09.2085: Townhouse: “Townhouse” means a single-family dwelling on its own lot, in a series of three or more similar dwellings in one structure but on separate lots, with interior units sharing common walls along both side property lines and end units sharing a common wall on one side property line, and with parking incorporated within each dwelling unit. (Ord. 5365 Sec. 9, 2011)

18.09.2090: Transient Accommodations: “Transient Accommodations” means a building or group of buildings in which lodging or lodging and meals are provided for transient guests for compensation, including cabins, resorts, hotels, motels, hostels, and campgrounds. For the purposes of this title, transient” shall be defined as being not more than 30 consecutive days duration. (Ord. 5180 Sec. 1, 2007)

18.09.2095: Transportable Unit: “Transportable Unit” (also referred to as a “cargo container”) means a standardized, reusable vessel that is or appears to be:

- (1) Originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities; and/or
- (2) Designed for or capable of being mounted or moved on a rail car; and/or
- (3) Designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship. (Ord. 5557 Sec. 2, 2014)

18.09.2100: Truck Stops/Recreational Vehicle Travel Centers: “Truck Stops/Recreational Vehicle Travel Centers” means a facility that provides fuel and travel services for long haul trucking, travel trailers, recreational vehicles and the general traveling public. These facilities include fuel sales, sanitary waste disposal sites for recreational

vehicles, and truck stop/recreational vehicle travel center development. These facilities may include supporting uses such as convenience stores, smaller restaurants and limited transient accommodations providing that they are secondary uses, and are supportive of the primary function of providing fuel. (Ord. 5180 Sec. 1, 2007)

18.09.2110: Urban Growth Area: “Urban Growth Area” means those areas designated for urban growth as established by Benton County pursuant to RCW 36.70A.03. (Ord. 5180 Sec. 1, 2007)

18.09.2120: Urban Level of Facilities and Services: “Urban Level of Facilities and Services” means those urban governmental services as defined within the capital facilities element of the Kennewick Comprehensive plan. (Ord. 5180 Sec. 1, 2007)

18.09.2130: Use: “Use” means any legal activity pursued on a piece of property, with or without any improvements. (Ord. 5180 Sec. 1, 2007)

18.09.2140: Utilities: “Utilities” means fixed improvements, including structures and facilities that convey, generate, transmit or distribute power, gas, oil, water, sewage, surface drainage or communication signals. (Ord. 5180 Sec. 1, 2007)

18.09.2150: Variance: “Variance” means approval to deviate from the dimensional requirements of this title. (Ord. 5180 Sec. 1, 2007)

18.09.2160: Vehicle Repair and Service: “Vehicle Repair and Service” means facilities and premises where the primary use is the retail supply and dispensing of lubricants, batteries, tires, and motor vehicle accessories, and includes the mechanical service and repair of motor vehicles. (Ord. 5180 Sec. 1, 2007)

18.09.2170: Vehicle Sales, Repair, and Service: “Vehicle Sales, Repair, and Service” means facilities and premises where the primary use is the retail sale of vehicles, including cars, trucks, farm vehicles, and boats and includes the supply and dispensing of lubricants, batteries, tires, motor vehicle accessories, and includes the mechanical service and repair of motor vehicles. (Ord. 5180 Sec. 1, 2007)

18.09.2180: Veterinary Hospital: “Veterinary Hospital” means any facility specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to animals, especially domestic animals, and licensed by state law to provide such facilities and services. (Ord. 5180 Sec. 1, 2007)

18.09.2190: WAC: “WAC” means Washington Administrative Code. (Ord. 5180 Sec. 1, 2007)

18.09.2200: Warehouse/Warehousing: “Warehouse/Warehousing” means terminal facilities used for handling freight for redistribution. (Ord. 5180 Sec. 1, 2007)

18.09.2210: Wholesale Sales: “Wholesale Sales” means the sale of materials, services, or merchandise, primarily for the purpose of resale, manufacture, or remanufacture. (Ord. 5180 Sec. 1, 2007)

18.09.2215: Wineries: “Wineries” means establishments for making wine. A winery is a facility specifically designed for a combination of the following activities: tasting, fruit processing, fermentation, barrel aging of wine and packaging, depending on the categories mentioned below:

- (1) Type A: Wineries with retail sales and services and on-site tasting, but without primary fruit processing or bulk fermentation.
- (2) Type B: Wineries with retail sales and services and on-site tasting, with primary fruit processing and/or bulk fermentation.
- (3) Type C: Wineries with either on-site primary fruit processing or bulk fermentation or both. (Ord. 5244 Sec. 1, 2008)

18.09.2220: Wireless Communication Facility: “Wireless Communication Facility” is any commercial facility for the receipt or transmission of communications by electromagnetic radiation. (Ord. 5180 Sec. 1, 2007)

18.09.2230: WSDOT: “WSDOT” means Washington State Department of Transportation. (Ord. 5180 Sec. 1, 2007)

18.09.2240: Yard: “Yard” means a required type of setback on a lot adjoining a lot line. (Ord. 5180 Sec. 1, 2007)

18.09.2250: Yard, Front: “Yard, Front” means a required setback extending across the full width of a lot lying between front lot line to the front building line in depth. Front yard width shall be measured at right angles to the front of the lot. (Ord. 5180 Sec. 1, 2007)

18.09.2260: Yard, Rear: “Yard, Rear” means a required setback extending across the full width of a lot and lying between the rear lot line and the nearest line of the building. Rear yard depth shall be measured at right angles to the rear of the lot. (Ord. 5180 Sec. 1, 2007)

18.09.2270: Yard, Side: “Yard, Side” means a required setback lying between the side of a lot line and the nearest line of the building and extending from the front yard to the rear yard, or in the absence of either of such front or rear yards, to the front or rear lot lines. Side yard widths shall be measured at right angles to sidelines of the lot. (Ord. 5180 Sec. 1, 2007)

18.09.2280: Zone: “Zone” means a mapped area to which a uniform set of regulations applies. The City of Kennewick official zoning map describes the extent and boundaries for the zones described within this Title. (Ord. 5180 Sec. 1, 2007)

18.09.2290: Zoning: “Zoning” means the process by which a county or municipality legally controls the use of property and physical configuration of development upon tracts of land within its jurisdiction. (Ord. 5180 Sec. 1, 2007)

CHAPTER 18.12

ZONE DISTRICTS AND STANDARDS

SECTION:

- 18.12.010: Use and Standards Table
 - A.1: Residential Use Table
 - A.2: Table of Residential Site Development Standards
 - B.1: Table of Non-Residential Uses
 - B.2: Table of Non-Residential Site Development Standards
- 18.12.020: Accessory Dwelling Units (ADUs)
- 18.12.030: Adult Concessions
- 18.12.040: Animal Keeping
- 18.12.050: Automobile-Oriented Uses
- 18.12.055: Car Washes, Vehicular Access/Circulation/Fencing/Operation
- 18.12.060: Day Care Centers and Mini-Day Care Centers
- 18.12.070: Family Day Care Home
- 18.12.080: Health Facilities
- 18.12.100: Junk
- 18.12.110: Kennels
- 18.12.120: Manufactured Housing Display Areas
- 18.12.130: Mini-Storage Development Standards
- 18.12.140: Motels
- 18.12.150: Outdoor Theaters
- 18.12.160: Public Parks and Playgrounds
- 18.12.165: Prohibited Marijuana Uses
- 18.12.170: Recreational Vehicle Park
- 18.12.180: Recreational Vehicle Storage
- 18.12.190: Rooming Houses and Boarding Houses
- 18.12.200: Satellite Dishes
- 18.12.210: Stables, Corrals, and Riding Academies
- 18.12.220: Storing of Commercial Vehicles
- 18.12.230: Subdivision Sales Area, Equipment, and Material Yards
- 18.12.240: Swimming Pools
- 18.12.250: Temporary and Parking Lot Businesses
- 18.12.255: Temporary Homeless Encampments

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18.12.260: Trailers, Boats, Camper Tops, Travel Trailers, and Recreational Vehicles
18.12.270: Transportable Units
18.12.280: Trash Containers
18.12.290: Veterinary Clinic of Hospital
18.12.300: Volatile Toxic and Volatile Flammable Material Storage
18.12.305: Wineries
18.12.310: Wireless Communication Facilities
18.12.320: Planning Director Interpretation of Unlisted Uses
18.12.350: Additional Conditions

18.12.010: Use and Standards Tables:

18.12.010 A.1: Residential Use Table: The following table lists uses allowed by zone and the applicable City review process as follows: Review Process I = Staff review, Review Process II = Conditional Use Permit, Review Process III = Temporary Homeless Encampment Permitsight. If a use is listed with a blank, it shall be prohibited in that zone. For certain categories of uses, additional requirements are also noted:

Residential Use Table	RMH	RS	RL	RM	RH	RTP	CN	CO	CBD	CC	CR	CG	CM	HMU	BP	IP	IL	IH	JF	PF	OS
Accessory Dwelling Units (See Title 18.12.020)	I	I	I	I	I				I					I							
Accessory uses and structures	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Animal Keeping (See Title 18.12.040)	I	I	I	I	I	I								I							
Bed and breakfast inns (5 guest rooms or less)	I	I	I	I	I				II					I							
Churches or religious places of worship	II	II	II	II	II	II		I		I	I	I	I	II							
Day Care Centers (See Section 18.12.060)				II	I		I	I		I	I	I		I	I	I	I	I		I	I
Family Day Care Home (see Section 18.12.070 and footnotes)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Farm Animals (see footnote 9)		I																			
Group Living I (See footnote 5)																					
Group Living II (See footnote 6)				I	I			I		I	I	I									
Home occupation	I	I	I	I	I	I	I	I	I	I	I	I	I	I							
Mini-Day Care Center (Located in Family Abode – Section 18.12.060)	II	II	II	I	I	II	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Mini-Day Care Center (Not located in Family Abode – See 18.12.060)				I	I		I	I		I	I	I	I	I	I					I	I
Mini Storage (See 18.12.130)					I					I	I	I					I	I			
Motels (See Title 18.12.140)					II				I	I	I	I	I								
Mixed Use (see footnote 11)							I	I	I	I	I	I									

Residential Use Table	RMH	RS	RL	RM	RH	RTP	CN	CO	CBD	CC	CR	CG	CM	HMU	BP	IP	IL	IH	JF	PF	OS
Nursing homes and congregate care facilities (over 10 residents)				II	II			I		I	I	I									
Nursing homes and congregate care facilities (up to 10 residents)	II	II	II	II	II			I		I	I	I		I							
Recreational vehicle park, transient (up to 30-day stay) (See Title 18.12.170, 180) (see also, footnote 7)																				I	I
Residences, multi-family (see footnote 8)				I	I		I	I		I	I	I	I	I							
Residences, single-family (see footnote 8)	I	I	I	I	I	I	I	I		I	I	I	I	I							
Rooming Houses and Boardinghouses (See Title 18.12.190)				II	II																
Swimming Pools (See Title 18.12.240) (see footnote 10)																				I	I
Temporary Homeless Encampments (See Title 18.12.255)	III	III	III	III	III	III	III	III	III	III	III	III	III	III	III	III	III	III	III	III	III
Trailers, Boats, Camper Tops, Travel Trailers, Recreational Vehicles (See Title 18.12.260)	I	I	I	I	I																

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FOOTNOTES for Table 18.12.010 A-1 Residential Use Table:

- (1) No permit required for a family day care home (up to six charges). Per 18.12.070, if alterations are made a building permit will be required. A state license and city business license is required.
- (2) Not used.
- (3) Not used.
- (4) Not used.
- (5) Residential Care Homes, state or federally approved, with six (6) or fewer residents and any required on-site residential staff permitted by right; all larger group living uses prohibited.
- (6) Residential Care Centers are permitted outright, subject to all of the applicable provisions of this title.
- (7) Recreational vehicle storage in R districts shall refer to Title 18.12.180 and shall be subject to special provisions applicable to Master Planned subdivisions.
- (8) In Commercial zones residential use is not allowed on ground (grade level) floor, subject to horizontal mixed use regulations contained in the Commercial Design Standards.

(9) In “RS” zones, agriculture and animal husbandry are permitted including keeping of farm animals such as horses, cows, and sheep, but maintained only on lots of at least 30,000 square feet. The keeping of farm animals must not exceed one animal per half acre.

(10) Swimming pools considered an accessory use.

(11) According to Land Use Permits, KMC 18.42 and the mixed use design standards, KMC 18.78. (Ord. 5558 Sec. 2, 2014: Ord. 5528 Sec. 2, 2013: Ord. 5462 Sec. 3, 2012: Ord. 5434 Sec. 4, 2012: Ord. 5309 Sec. 8, 2010: Ord. 5262 Sec. 2, 2009: Ord. 5204 Sec. 5, 2007: Ord. 5180 Sec. 1, 2007)

18.12.010 A.2: Table of Residential Site Development Standards: Minimum and maximum residential standards are identified in the following table.

	RS ⁵	RL ⁵	RM ^{3, 4, 5, 6, 7}	RH ^{3, 4, 5, 6, 7}	RTP ^{3, 4, 5}	RMH ⁶
Max. Density ¹	N/A	N/A	13	27	13	4
Min. Lot Size	10,500	7,500	4,000	4,000	1 acre	7,500
Min. Lot Size (Rowhouse/ Townhouse)	N/A	N/A	1,800	1,600	N/A	N/A
Min. Lot Width ²	60'	60'	50'	N/A	N/A	60'
Min. Lot Width ² (Rowhouse/ Townhouse)	N/A	N/A	24'	24'	N/A	N/A
Min. Front Yard/ Street Setback ²	15'	15'	15'	15'	15'	20'
Min. Garage Setback ²	20'	20'	20'	20'	20'	20'
Min. Side Yard Setback ²	5'	5'	5'	5'	5'	5'
Min. Rear Yard Setback ²	15'	15'	15'	15'	15'	15'
Max. Height	30'	30'	30'	45'	N/A	30'
Min. Lot Frontage ²	30'	30'	30'	30'	30'	30'
Min. Lot Frontage ² (Rowhouse/ Townhouse)	N/A	N/A	20'	20'	N/A	N/A

FOOTNOTES for Table 18.12.010 A.2 Residential Standards Table:

- (1) Maximum Density – The maximum permitted number of lots/units is determined by dividing the gross area of the parcel in square feet by 43,560 square feet, multiplied by the allowed maximum density under table 18.12.010. The closest whole number is the permitted maximum number of lots.
- (2) Yards:
 - (a) Street: Building setback lines will be measured from the back of the sidewalk. Where no sidewalk exists, building setback lines will be measured from the right-of-way line. (See fig.1a-b)
 - (i) For garages that face a no-street abutting property line (side-entry garages,) the garage setback may be reduced to 15' from the back of the sidewalk. The street facing façade of the garage shall be treated with windows, modulations and/or architectural design elements and features that mimic the remainder of the house. Landscaping shall also be required along the street-facing façade. (See fig. 2a-b)
 - (ii) In no instance shall a vehicle or any other object be allowed to obstruct a pedestrian walkway/sidewalk.
 - (b) Rear: As measured from an existing lot line or alleyway.
 - (c) Side: Shall be five (5) feet from the nearest side yard property line.
 - (i) Single-family attached and zero-lot line housing shall have no setback on the side where the property line follows a common or zero-lot line wall.
 - (ii) End units shall have a five (5) foot setback from the nearest side yard property line and no setback on the common wall side.
 - (d) Lot Frontage: Lot frontage lines will be measured from the right-of-way line.
 - (e) Where no street frontage exists, building setback and lot frontage lines will be addressed during the site plan or plat review process and must be approved by the Planning Director.

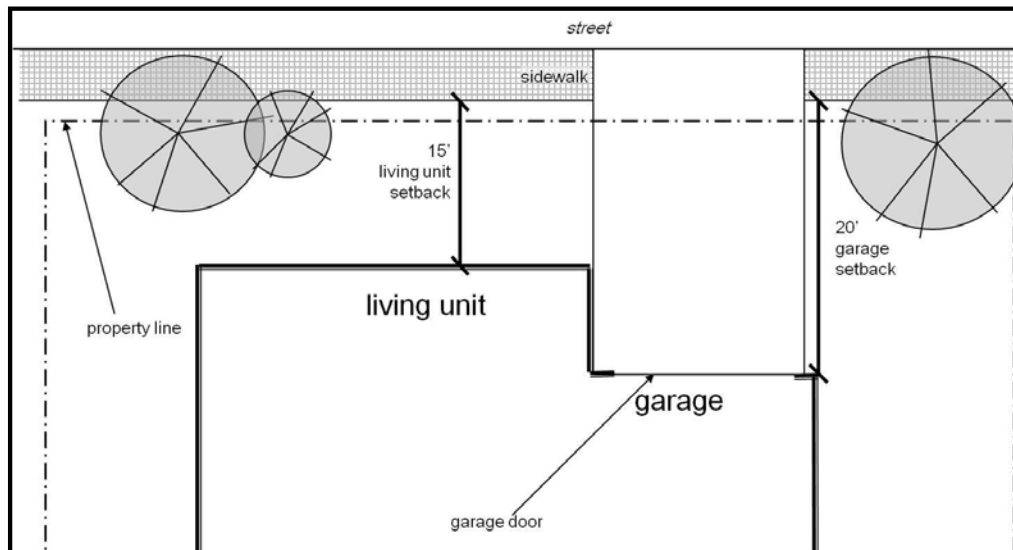


Fig. 1.a

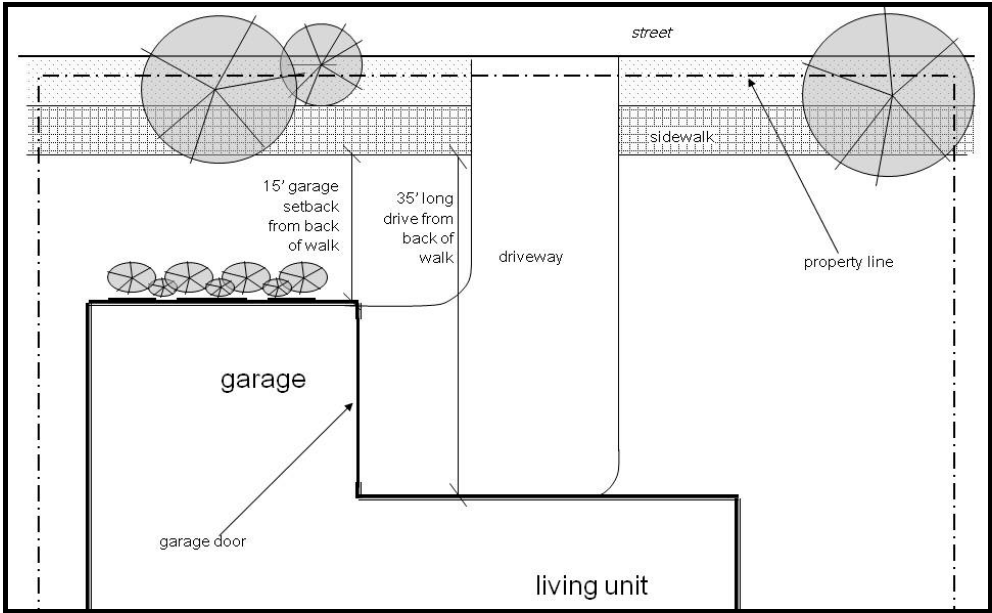


Fig. 2.a.

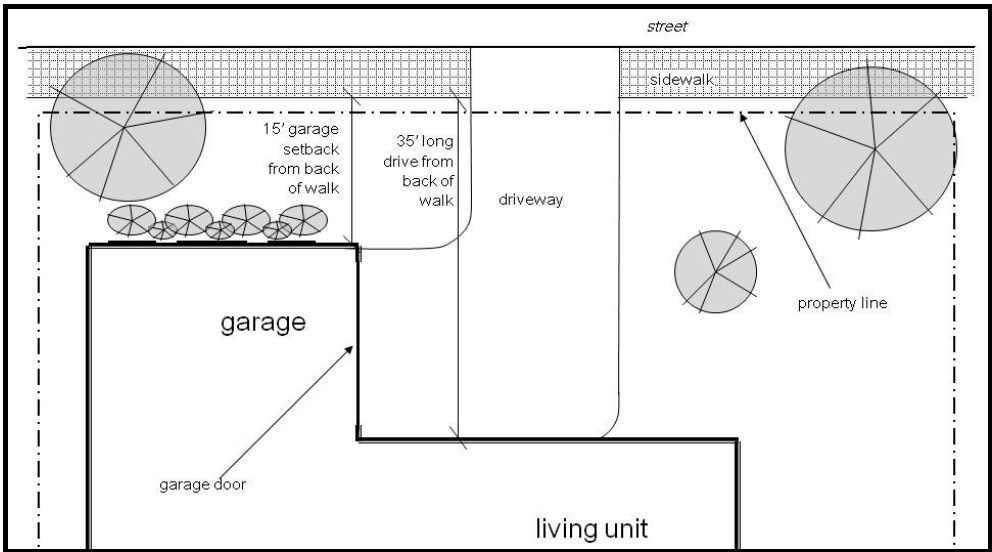


Fig. 2.b.

(3) Open space calculations. In multi-family developments, where the density exceeds seven (7) units per acre, the amount of required common open space shall equal or be greater than the minimum aggregate area of provided bedrooms based on the following formula: 300 square feet for the first bedroom and 200 square feet for each additional bedroom; exclusive of required street frontage setbacks and required parking areas. "Open area" is an area with average dimensions of not less than 15 feet by not less than 500 square feet. More than one open area may be provided in a given development. Any interpretation of this Section will be made by the Director.

- (a) If a proposed project may have a significant adverse impact on the environment because of inadequate public park facilities in the area, and additional park land is required or indicated by an environmental impact statement, as a mitigating measure in lieu of an environmental impact statement, or by the Comprehensive Park and Recreation Plan, the developer must provide for parks in accord with Sections 17.100.010 to 17.100.040 inclusive. If the property is too small to accommodate adequate recreational facilities for the residents and the area has inadequate park facilities, the proposed development will, in most cases, be disapproved unless other measures, which will reasonably protect the public's needs for adequate recreational areas, can be agreed upon between the developer and the City. Such agreement may be cash in lieu of on-site facilities placed in a mitigation account established by the Parks Department for use toward a park or parks within walking distance (1/4 mile straight line) from said development. Under normal circumstances the City will not accept the dedication of a park site of less than five (5) acres.
- (4) Mobile Home Park Requirements:
 - (a) New Mobile Home Parks: For Residential Trailer Parks developed after January 1, 1998, the following spacing standards may be utilized:
 - (i) When each primary structure has a 20-foot front and rear yard (18.09.1950) or open space, the following spacing standards apply: side-by-side, end-to-end and parallel - 10 feet between each primary structure; accessory structures that meet provisions of the International Building Code must have a minimum four-foot setback between the primary structure unless attached to the primary structure, and must have a minimum six-foot setback between adjacent primary and accessory structures.
 - (b) 10 feet setback from all property lines; 20 feet from an existing right-of-way line or proposed right-of-way line whichever is greater.
 - (c) Spacing: 20 feet between mobile homes located side-by-side, end-to-end and parallel. End-to-end, 10 feet if the extended outside edge does not project beyond the extended centerline of the adjacent unit. There must be 20 feet between any mobile home and any permanent structure; 10 feet between any mobile home and any accessory structure unless attached to the mobile home in accord with the State of Washington and the International Building Code; 10 feet between any occupied travel trailer and any mobile home, accessory structure or permanent building. The average distance between adjacent, angular mobile homes must not be less than 20 feet with the closest point no less than 10 feet.

- (d) Mobile Home Roadways: Each manufactured home must be served by at least one 30-foot wide roadway for two (2) moving lanes of traffic and a three (3) foot delineated, pedestrian walkway. If on-roadway parking is allowed, the roadway width must be increased accordingly. All roadways must be improved with asphalt, bituminous surface treatment or an equivalent.
- (5) Single-Family Homes (attached and detached); Manufactured Homes:
 - (a) Intent: It is the intent of the section to set forth the terms and conditions under which single-family homes may be sited, and to ensure that manufactured homes as defined herein may be sited in any zone where single-family homes are permitted. These regulations apply to all zones where single-family homes are permitted.
 - (b) Minimum siting standards: The following standards apply to the siting of all single-family homes, whether site-built homes or manufactured homes. Where any conflict arises between these regulations and the adopted building code, the stricter standard shall apply.
 - (i) Foundation: all dwellings shall be placed on permanent foundations;
 - (ii) Minimum width: a dwelling shall not be less than 14 feet in width at the narrowest point of its first story;
 - (iii) Age of dwelling (for manufactured homes only): no manufactured home more than three years old on the date of installation or previously lived in shall be permitted on any lot;
 - (iv) Roof: minimum pitch for a roof on a dwelling shall either be flat or have a minimum four-inch vertical rise for each twelve inches of horizontal run (4:12 pitch);
 - (v) All units with a common wall must be constructed concurrently and be under the same ownership at the time of initial construction;
 - (vi) Common walls must follow property lines and have no openings.
- (6) Townhouse/Rowhouse Development:
 - (a) All townhouse or rowhouse development shall comply with the Residential Design Standards-Multi-Family;
 - (b) There must be at least 10 feet on end between groups. This space may either be end unit lots or common open space, and, if so, there may be openings in the end units;
 - (c) The number of connected units may not exceed eight;
 - (d) The Planning Director may approve up to a 10% deviation from all standards related to townhouse or rowhouse development. (Ord. 5647 Sec. 1, 2016; Ord. 5542 Sec. 1, 2014; Ord. 5504 Sec. 1, 2013; Ord. 5407 Sec. 4, 2012; Ord. 5365 Sec. 3, 2011; Ord. 5309 Sec. 9, 2010; Ord. 5204 Sec. 6, 2007; Ord. 5180 Sec. 1, 2007)

18.12.010 B.1: Table of Non-Residential Uses: The following table list uses allowed by zone and the applicable City review process as follows: Review Process I = Staff review, Review Process II = Conditional Use Permit. If a use is listed with a blank, it shall be prohibited in that zone. For certain categories of uses, additional requirements are also noted.

NON-RESIDENTIAL USES																					
18.12.010 Zoning District Permitted Uses	RS	RL	RM	RH	RMH	RTP	CN	CO	CBD	CC	CR	CG	CM	HMU	BP	IP	IL	IH	JF	PF	OS
Academy								I		I	I	I			I						
Adult Entertainment (1) (See Title 18.12.030)																					
Adult Retail (1) (See Title 18.12.030).										II	II	II					II	II			
Agricultural Processing, heavy																		I			
Agricultural Processing, light																	I	I			
Airports and airfields																	I			I	
Alcoholic beverage sale (packaged)							I	I	I	I	I	I	I	I	I						
Accessory uses	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Art Gallery							I	I	I	I	I	I	I	I	I						
Automobile-Oriented Uses (See Title 18.12.050)							I			I	I	I	I								
Auto-Wrecking Yard																		I			
Aviation Storage and Service											I									I	
Bakeries, retail							I	I	I	I	I	I									
Bakeries, wholesale									II			I				I	I	I			
Banks and financial institutions								I	I	I	I	I	I		I						
Barbers, beauty shops, and tanning salons							I	I	I	I	I	I	I	I							
Bars and taverns									II	I	I	I	I								
Battery Charging Station	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Battery Exchange Station							I	I	I	I	I	I	I		I	I	I	I			
Boat building and repair, commercial												I	I				I	I			
Boat marinas												I	I				I	I			
Body Art Studios							I	I		I	I	I	I	I							
Brewpub									I	I	I	I									
Breweries, micro										I	I	I					I				
Business School								I		I	I	I			I						
Bus stations and terminals										II	II	II									

NON-RESIDENTIAL USES																					
18.12.010 Zoning District Permitted Uses	RS	RL	RM	RH	RMH	RTP	CN	CO	CBD	CC	CR	CG	CM	HMU	BP	IP	IL	IH	JF	PF	OS
Car washes (See Title 18.12.050 and 18.12.055 if CN zone)							I	II		I	I	I									
Cemeteries	II	II	II																		
Clinics								I	I	I	I	I		I	I						
Commercial Amusement										I	I	I									
Commercial amusement, recreation										I	I	I									
Construction yards												I					I	I			
Convenience stores							I		I	I	I	I									
Correctional institutions																			I		
Distilleries, craft									I	I	I	I					I				
Dry cleaners and laundries							I	II	I	I	I	I		II							
Energy facilities	II	II	II	II	II	II	II	II		II	II	II	II	II	II	II	II	II	II	II	II
Equipment Rental										I	I	I				I	I				
Espresso stands							I	I	I	I	I	I	I	I	I	I	I	I			
Essential public facilities and utilities	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II
Event Center								II		I	I	I									
Gas stations							I	II	I	I	I	I	I				I	I			
Golf Course										I										I	I
Golf: driving range, miniature golf,										I	I	I	I								
Grocery stores							I	II	I	I	I	I									
Hardware stores							I		I	I	I	I									
Hazardous waste storage facilities – off site																		II			
Hazardous waste storage facilities – on site								II		II		II					II	II			
Health Facilities, see 18.12.080			I	I				I		I	I	I									
Hospitals and sanitariums (except animal clinics, hospitals)				I				I		I	I	I								I	
Industrial uses, heavy																		I			
Industrial uses, light																	I	I			
Junk (See Title 18.12.100)										I	I	I					I	I			
Kennels (See Title 18.12.110)								I		I	I	I			I	I	I	I			
Laboratories for research and testing										I	I	I	I	II	I					I	I
Library	II	II	II	II	II	II	II	I		I	I	I	I	II	I					I	I

NON-RESIDENTIAL USES																					
18.12.010 Zoning District Permitted Uses	RS	RL	RM	RH	RMH	RTP	CN	CO	CBD	CC	CR	CG	CM	HMU	BP	IP	IL	IH	JF	PF	OS
Lock and gunsmiths							I		II	I	I	I		I							
Lumber yards												I					I	I			
Manufactured Housing Display Areas (See Title 18.12.120)										I	I	I					I	I			
Mini-storage				I	I					I	I	I					I	I			
Mixed Use (See KMC 18.42 and 18.78)							I	I	I	I	I	I									
Museums	II	II	II	II	II	II	II	I	I	I	I	I	I	II	I					I	I
Nursery										I	I	I									
Offices, including professional offices, agencies and services								I	I	I	I	I	I	I	I	I	I	I	I		
Outdoor commercial driving ranges										I											
Parking garages and lots									II		I	I									
Pawnshop												I									
Pet grooming							I	I	I	I	I	I		I							
Pharmacy, dispensing							I	I		I	I	I			I						
Photographic studios							I	I	I	I	I	I	I	I	I						
Plumbing shops and yards												I					I	I			
Printing, publishing and reproduction establishments								I	I	I	I	I			I						
Private gymnasiums, fitness centers, dance studios, body building, and martial arts, etc.								I		I	I	I			I						
Public Parks (See Title 18.12.160)									I												
Public/quasi public facilities and services	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II	II
Radio, television and small electronics repair and service								I	I	I	I	I									
Radio, television broadcasting stations (excluding antenna)									II	I	I	I									
Rapid Charging Station	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Recreational Vehicle Storage (See Note 4) (See Title 18.12.180)	I	I	I	I	I	I				I	I	I									
Recreational Vehicle Park																				I	I
Recycling, high intensity																	II	II		II	
Recycling, low intensity																I	I	I		I	
Repair shops (not auto)								II	I	I	I	I			I		I	I			
Restaurants							I	I	I	I	I	I	I		I	I	I				
Restaurants, fast food								II	I	I	I	I	I		I	I	I				

NON-RESIDENTIAL USES																					
18.12.010 Zoning District Permitted Uses	RS	RL	RM	RH	RMH	RTP	CN	CO	CBD	CC	CR	CG	CM	HMU	BP	IP	IL	IH	JF	PF	OS
Retail stores not otherwise named in this list including department stores.							I	II	I	I	I	I		I (1)	I (1)						
Satellite Dishes (See Title 18.12.200)																					
Schools, private and public	I	I	I	I	I	I	I	I		I	I	I	I	I	I	I	I	I	I	I	I
Second Hand/Consignment Store									I	I	I	I									
Sign manufacture, painting and maintenance												I					I	I			
Skating rink											I										
Stables, Corrals, Riding Academies (See Title 18.12.210)	II																				
Storing of Commercial Vehicles (See Title 18.12.220)											I	I			I	I	I	I			
Subdivisions, Sales Area, Equipment and Material Yards (See Title 18.12.230)	I	I	I	I	I	I															
Temporary and Parking Lot Businesses (See Title 18.12.250)																					
Theaters, movie								II	I	I	I	I									
Towers, antennas, and supporting structures, including amateur radio towers, 55 feet or less	II	II	II	II	II	II	II	I		I	I	I	I	I	I	I	I	I	I	I	
Transient accommodations (including hotels and motels)				I				I	II	I	I	I	I	I	I						
Transportable Units (See Title 18.12.270)																					
Truck stops												I					I	I			
Undertaking establishments (Mortuary)								I		I	I	I									
Vehicle sales, incidental repair and service										I	I	I									
Vehicle repair and service, body and fender shops												I					I	I			
Veterinary Clinic or Hospital (See Title 18.12.290)									I	I	I	I					I				
Vocational School									II			I			I		I				
Volatile Toxic and Volatile Flammable Material Storage (See Title 18.12.300)																		II			
Warehousing												I					I	I			
Wholesale, which may include incidental retail outlets for only such merchandise as is handled at wholesale												I					I	I			
Wineries Type A (See Title 18.12.305)									I	I	I	I									
Wineries Type B (See Title 18.12.305)										II	II	II					II				
Wineries Type C (See Title 18.12.305)																	I				

NON-RESIDENTIAL USES																					
18.12.010 Zoning District Permitted Uses	RS	RL	RM	RH	RMH	RTP	CN	CO	CBD	CC	CR	CG	CM	HMU	BP	IP	IL	IH	JF	PF	OS
Wireless Communication Facilities (See Title 18.12.310)																					

FOOTNOTE for Table 18.12.010 B.1 Non-Residential Use Table:

- (1) For HMU see limitations at Title 18.12.335.
- (2) For the Clearwater Master Plan Area and BP zoning districts see Title 18.12.340.
- (3) For Rental Equipment, all items must be contained within a completely enclosed building or screened from view by a sight-obscuring fence or wall.
- (4) Allowed in RS, RL, RM, RMH, and RTP only as part of a planned development or subdivision and only for the use by residents of the development consistent with Recreational Vehicle Storage provisions and limitations of the Kennewick Residential Design Standards KMC 18.75. (Ord. 5670 Sec. 1, 2016; Ord. 5572 Sec. 1, 2014; Ord. 5542 Sec. 2, 2014; Ord. 5462 Sec. 4, 2012; Ord. 5434 Sec. 5, 2011; Ord. 5309 Sec. 10, 2010; Ord. 5262 Sec. 3, 2009; Ord. 5244 Sec. 3, 2008; Ord. 5204 Sec. 7, 2007; Ord. 5180 Sec. 1, 2007)

18.12.010 B.2: Table of Non-Residential Site Development Standards: Minimum and maximum non-residential use standards are identified in the following table. Additional site design standards are included under 18.12.340, below and in the *Site Design Guidelines for Commercial, Office and Industrial Uses*:

Table of Commercial/Industrial Standards	Maximum District Size	Maximum Parcel Size	Yards	Maximum Building Height	Maximum Lot Coverage	Outdoor Storage
CN- Commercial – Neighborhood District	5 Acres	None	See (1) Below	45'	None	See (2) Below
CO-Commercial – Office District	None	None	See (3) Below	None	None	See (4) Below
CBD-Commercial-Central Business District	None	None	See (16) Below			None
CC- Commercial – Community District	None	None	See (3) Below	None	None	See (4) Below
CR-Commercial – Regional District	None	None	See (3), (15) Below	None	None	See (4) Below
CG-Commercial – General District	None	None	See (3) Below	None	None	See (4) Below
CM-Commercial – Marina District	None	None	See (3) Below	See (14) Below	None	None
HMU-Historic, Mixed Use District (See Title 18.12.335 & 18.12.010(5))			See (6) Below	30'	45%	
BP-Business Park District	5 Acres	None	See 18.12.340	35'	50%	See 18.12.340
IP-Industrial Park District	20 Acres	None	See (7) Below	None	None	See (8) Below
IL-Industrial, Light District	None	None	See (9) Below	None	None	See (10) Below
IH-Industrial, Heavy District	None	None	See (9) Below	None	None	See (10) Below

Table of Commercial/Industrial Standards	Maximum District Size	Maximum Parcel Size	Yards	Maximum Building Height	Maximum Lot Coverage	Outdoor Storage
JF-Justice Facilities	None	None	See (11) Below	85'	None	None
PF-Public Facilities District	None	None	See (12) Below	None	None	See (13) Below
OS-Open Space District	None	None	See (12) Below	None	None	See (13) Below
NOTE: *Additional site design and building standards may be included in the <i>City of Kennewick Commercial Design Standards manual</i>						

FOOTNOTES for Table 18.12.010 B-2 Non-Residential Standards Table:

- (1) Street frontage: 20 feet, except for fuel island canopies, which may encroach up to five feet from the street property line with the outer edge of the canopies, provided that the canopy support pillars are at least 15 feet from the nearest street property line.
- (a) Non-street frontage: None; unless the use abuts an R or HMU district, in which case 20 feet.
- (2) All activity, other than off-street parking, loading, or gasoline sales must be kept within a completely enclosed building. However, live plant material may be stored outside if parking is not affected.
- (3) Street Frontage: Only that necessary to comply with Chapters 13.12, 18.21, and 18.27. The right-of-way is determined in accord with Section 5.56.51.
- (a) View obstruction setbacks must be improved with asphalt, concrete, or some other comparable dust-free and weed free material, or landscaped to prevent dust and weeds with adequate irrigation or otherwise maintained to prevent weeds, dust and rubbish.
- (b) Side and Rear: None; but 20 feet on sides abutting R or HMU districts.
- (4) All service, processing and storage areas abutting any R district at ground floor level or within 20 feet and visible from a street, must be within a completely enclosed building or screened from view by a permanently maintained, sight-obscuring fence at least six feet high. Except for vehicles, no storage shall extend above the fence.
- (5) HMU-Historic, Mixed Use District Development Standards:
 - (a) Floor area ratio (the amount of building surface expressed as a ratio to lot surface) is a maximum of .45;
 - (b) New construction of dwellings, business buildings, and exterior remodeling of existing structures (including re-roofing, re-siding, additions and similar exterior changes) require conformance with the following criteria:
 - (i) Maximum building height - 30 feet;
 - (ii) Roof pitch - not less than 4:12;
 - (iii) Orientation - main entranceways oriented directly or as near directly to the street as possible;
 - (iv) Openings - blank walls must be avoided. A combination of windows, doors, balconies, alcoves, bay windows, porches or similar architectural features must comprise a minimum of 25% of the total street wall area and a minimum of 20% of the total area of each of the remaining walls, with the exception of the rear wall;
 - (v) Windows - mirror or mirror-like composition or exterior finishes are prohibited;
 - (vi) Siding and roofing - metal, vinyl or plastic siding or roofing is allowed, provided the finish is not reflective, and in the case of metal, is anodized;
 - (c) The structure shall be similar in character to the surrounding residential structures.
 - (d) Yards:
 - (i) Street frontage - (see 18.12.335);
 - (ii) Side yards - (see 18.12.335);
 - (iii) Rear yards - None, provided that the Floor Area Ratio ("F.A.R.") and other setbacks are observed;

- (e) Accessory structures must conform to 18.27.030;
- (f) Signage shall conform with Section 18.24 with the following changes:
 - (i) A maximum height limit of 15 feet for freestanding signs;
 - (ii) The maximum sign area for all signs is 24 square feet. Included in this total is an eight square foot maximum for signage that is attached, drawn, or installed on the structure or any portion of the structure;
 - (iii) Internally lit signage and signage utilizing flashing lights is prohibited. Lighting shall be by indirect methods;
 - (iv) Non-conforming signs having a replacement value of less than \$2,500 shall be made conforming by June 30, 2000;
 - (v) Multi-tenant businesses are permitted 24 square feet of signage for the initial business and eight (8) square feet per additional business to a maximum of 48 square feet;
- (g) Parking requirements in this district shall conform with Section 18.36, with the following exceptions:
 - (i) Parking requirements for unlisted uses is one space per 250 square feet of building space devoted to business activities. This formula takes into account space used for retail activity, record storage, office and clerical space, or other areas normally and primarily used for business purposes;
 - (ii) Total number of off-street parking stalls required may be reduced one space for each 20 feet of linear frontage along a public street that is legal for parking purposes;
- (h) Landscaping requirements in this district shall conform with Section 18.21, with the following exceptions:
 - (i) Landscaping must incorporate street frontage setback landscaping per the design requirements of Section 18.21.060(1)(a); this requirement does not use side and rear yard ratios in its calculation;
- (i) Public hours of operation for commercial uses must begin at or after 7:00 a.m. and end at or before 8:30 p.m., with the exception of Bed & Breakfasts, which by nature require 24-hour service.
- (j) Retail sales incident to the uses listed in 18.12.010 B-1: Table of Non-Residential Uses are permitted, provided that such incidental sales do not occupy more than 25% of the gross street floor area of the primary structure. For purposes of this calculation, retail activity is that portion of the gross street floor located in one designated area of such street floor used for goods transactions. It does not include storage or record keeping space.
- (6) Yard requirements: (see Section 18.12.330 for City location-related standards).
 - (a) Front: 15 feet;
 - (b) Corner/flanking street: 10 feet;
 - (c) Side: 0 feet for the interior non-perimeter lot lines of a parent parcel. Once a parent parcel is platted or subdivided, only the internal lot lines shall be allowed to have zero foot side yards. All perimeter lot lines of the parent parcel have a ten-foot side yard setback requirement. Buildings constructed with side yards less than 10 feet shall not be longer than 300 feet. A property owner's association must be formed and a maintenance agreement executed, as approved by the Planning Director, providing for perpetual maintenance common of landscaped areas for developments with buildings with side yards

of less than 10 feet. The maintenance agreement shall be recorded and run with land and shall provide for the City of Kennewick to arrange for maintenance of landscaped or common areas in the event the property owners fail to maintain these areas or their association dissolves. The agreement must be recorded prior to the land division;

- (d) Side yards abutting R or HMU zones must be a minimum of 20 feet;
- (e) Rear: 10 feet, unless abutting an R zone, in which case the minimum setback is 25 feet;
- (f) Minimum street frontage: 30 feet.
- (7) Yards: (see Section 18.12.330 for City location-related standards).
- (a) Street frontage yards: 15 feet. View obstruction setbacks must be improved with asphalt, concrete, or some other comparable dust-free and weed-free material, or landscaped to prevent dust and weeds with adequate irrigation or otherwise maintained to prevent weeds, dust and rubbish.
- (b) Side and rear yards: 25 feet.
- (8) All service, processing and storage areas abutting any R district at ground floor level or within 20 feet and visible from a street, must be within a completely enclosed building or screened from view by a permanently maintained, sight-obscuring fence at least six feet high. Except for vehicles, no storage shall extend above the fence.
- (9) Street Frontage: Only that necessary to comply with Chapter 13.12 and Section 18.12.010 A-2 and B-1. The right-of-way is determined in accord with Section 5.56.51.
- (a) View obstruction setbacks must be improved with asphalt, concrete, or some other comparable dust-free and weed-free material, or landscaped to prevent dust and weeds with adequate irrigation or otherwise maintained to prevent weeds, dust, and rubbish.
- (b) Side and Rear: None; but 25 feet on sides abutting R or HMU districts.
- (10) All service, processing, and storage areas abutting any R or HMU districts at ground floor level must be within a completely enclosed building or screened by a permanently maintained sight-obscuring fence at least six feet high.
- (11) All yards must be a minimum of 20 feet, unobstructed by structures or accessory uses.
- (12) Street frontage: 20 feet if adjacent to an R District; Non-street frontage: none unless the use abuts an R or HMU district or use, in which case, 20 feet.
- (13) All storage areas visible from any street abutting a site or from any abutting R district at ground floor level, must be within a completely enclosed building or screened from view by a permanently maintained sight-obscuring fence at least six feet high. Except for vehicles and rolling equipment, no storage shall extend above the fence.
- (14) Building heights in the CM district shall be 35 feet except for the height limits provided in Chapter 18.68, Appendix A-6-3, Clover Island – Height Limitation Exhibit.
- (15) Aviation uses shall be no closer than seventy-five (75) feet from the curbline of West Rio Grande Avenue or West Grandridge Boulevard.
- (16) Development in the Central Business District (CBD) zoning district is subject to the following development standards:
 - (a) A single architectural style is not required for new or remodeled buildings, but a building's style shall be consistent throughout; details from different eras shall not be mixed on a single building. Traditional detailing is required.

- (b) A building's elevation and mass must be modulated to match or replicate the narrow commercial façades typical of original development, and give a sense of human scale. Reuse original façades where possible and economically feasible.
- (c) New construction shall be consistent with the height, scale, setbacks or massing of nearby historic buildings.
- (d) Appropriate building facing materials include: brick, wood, stucco, stone, and cast iron storefronts. Building materials for new buildings shall support the existing character of older buildings, by having a projected physical life cycle of 100+ years.
- (e) The following street front siding materials are prohibited:
 - (i) Plain concrete masonry unit;
 - (ii) Unfinished tilt-up concrete slab;
 - (iii) Corrugated metal; or
 - (iv) Vinyl or plastic siding.
- (f) Unpainted brick may not be painted, except for clear graffiti preventing finishes.
- (g) Building entries shall be located on the street side of the building. If the building does not front on a public street then the entry must be visible from a public street.
- (h) Buildings located on street corners shall have additional architectural detailing to emphasize the street corner, which may include, for example: corner entry, balcony, integrated signage, public art, and pedestrian amenities. Buildings or public amenities located on corners shall abut the property line on each side of the corner.
- (i) Blank façades shall not be visible to public spaces or rights-of-way. Treatments to alleviate blank façades may include windows, architectural detail, or materials with texture (e.g. brick, siding, etc.) or artwork such as sculpture.
- (j) Vestibules, entries, windows, and other architectural features shall provide further visual definition and reduce the visual mass of larger buildings. Façades shall reflect the scale and massing of historic structures and achieve proportions that give a sense of human scale.
- (k) First floor ceiling heights shall be taller than upper stories to reflect the historical pattern of construction. (First floor ceiling heights are a minimum of 10 feet to accommodate transom windows.)
- (l) Awnings create visual interest and protect pedestrians from sun and rain and are encouraged in the CBD district subject to the following:
 - (i) Awnings may be provided along the entire frontage of commercial buildings. They shall be of a size, scale and shape appropriate to the specific building, window and door trim. The underside of all awnings shall be enclosed to prevent birds from roosting or nesting.
 - (ii) Awnings or canopies shall be supported solely by the building and be hung above the display window space at least eight (8) feet above the public walkway.
 - (iii) Awnings may extend four (4) feet over the walkway from the building's face provided there is no obstruction of street trees and/or street lights as approved by the City.

- (m) Windows provide a visual entry into a business and the goods and services offered while providing security. Windows shall meet the following standards:
 - (i) Display windows on the ground floor of retail and commercial buildings shall be the predominant surface on the first story, typical of original downtown Kennewick commercial buildings.
 - (ii) New commercial construction shall provide a minimum of fifty percent (50%) of the first floor wall surface in windows that face the street based upon a minimum of ten (10) feet of first floor height.
 - (iii) No more than twenty-five percent (25%) of the gross square footage of display windows may be used for temporary or permanent signage for advertizing, promotion or community service announcements.
 - (iv) Windows shall not be permanently darkened by use of applied films at street level. First story windows shall not be covered but shall provide visual access from street and sidewalks. Windows located above the street level may be covered by curtains, shades, or other temporary coverings that do not distract from the historic relevance of the area. (Ord. 5542 Sec. 3, 2014; Ord. 5434 Sec. 6, 2012; Ord. 5366 Sec. 2, 2011; Ord. 5309 Sec. 11, 2010; Ord. 5212 Sec. 3, 2008; Ord. 5180 Sec. 1, 2007)

18.12.020: Accessory Dwelling Units (ADUs): Attached and detached ADUs are permitted in single-family residential zoning districts, shall adhere to the appearance of single-family residences and be subject to the following development standards:

(1) Attached Accessory Dwelling Units: A portion of a single-family dwelling unit may be converted to one accessory apartment which may have a bathroom and kitchen. An attached ADU must comply with the following standards:

- (a) One additional improved off-street parking space must be provided for the residents of the accessory apartment and if an attached garage is converted to an accessory unit, additional parking spaces must be improved elsewhere on the site to replace those lost.
- (b) One unit must be owner-occupied. The property owner shall record a deed restriction with the Benton County Auditor's Office. The document shall be in a form prescribed by the Planning Director and include a description of the location and size of the ADU and a covenant that one (1) of the dwelling units is, and will continue to be, occupied by the owner of the property as the owner's principal and permanent residence for as long as the other unit is being rented or otherwise occupied. The owner shall maintain residency at least six (6) months out of the year and at no time receive rent for, or otherwise allow to occupy the owner unit when absent the remainder of the year. Falsely certifying owner occupancy shall be considered a violation of the zoning ordinance and is subject to enforcement action.

(2) Detached Accessory Dwelling Units: Detached ADUs shall be subject to the following standards:

- (a) No more than one ADU per legal lot. A lot occupied by two or more dwellings shall not be permitted to have an ADU;
- (b) Minimum lot size – 10,000 square feet;
- (c) Detached accessory structures are subject to the provisions of Chapter 18.27;

- (d) Total floor area: The total gross floor area of an ADU shall not exceed forty (40) percent of the living area of the primary dwelling unit or 800 square feet, whichever is less. In calculating living area, uninhabited floor areas such as garages and unheated storage areas are excluded;
- (e) Number of bedrooms: ADUs are limited to one (1) bedroom;
- (f) Occupancy: No more than three (3) people, of which no more than two (2) are 16 years of age or older, shall reside in an ADU;
- (g) Parking: An ADU shall have a minimum of one (1) off-street parking space, which is in addition to the two (2) off-street parking spaces required for the primary dwelling unit;
- (h) Architectural design: The exterior appearance of an ADU shall be architecturally compatible with the primary dwelling unit. Compatible includes coordination of architectural style, exterior building materials, color, roofing material, form and pitch; window style and placement; other architectural features and landscaping;
- (i) Entrances: Only one (1) entrance may be located on the front of the house, unless the front of the house already has more than one (1) entrance, or in the case of a detached ADU;
- (j) Connection charges and impact fees shall be as specified by the applicable ordinances and resolutions;
- (k) Owner Occupancy: Prior to the issuance of a building permit establishing an ADU, the property owner shall record a deed restriction with the Benton County Auditor's Office. The document shall be in a form prescribed by the Planning Director and include a description of the location and size of the ADU and a covenant that one (1) of the dwelling units is, and will continue to be, occupied by the owner of the property as the owner's principal and permanent residence for as long as the other unit is being rented or otherwise occupied. The owner shall maintain residency at least six (6) months out of the year and at no time receive rent for, or otherwise allow to occupy the owner unit when absent the remainder of the year. Falsely certifying owner occupancy shall be considered a violation of the zoning ordinance and is subject to enforcement action;
- (l) Grace Period: At no time prior to the adoption of this section has the City of Kennewick zoning ordinance permitted detached ADUs. Nevertheless, for up to twelve (12) months from the effective date of this section, a home or lot which has had a detached ADU established prior to the adoption of this section, but which cannot comply with above items (h) and/or (i), or the setback requirements of this section, may be considered through a conditional use permit process. All other ADU provisions and applicable building code requirements shall apply when legalizing the detached ADU. (Ord. 5528 Sec. 1, 2013; Ord. 5204 Sec. 8, 2007; Ord. 5180 Sec. 1, 2007)

18.12.030: Adult Concessions (Entertainment and Retail):

(1) Adult Entertainment and Retail taken together as "Concession," and defined by Section 18.09.070, are recognized as being uses that may prove detrimental in certain circumstances to its surrounding neighborhoods and thereby the following regulations are imposed:

- (2) No adult concessions, shall be located:
 - (a) Within 500 feet of any Residential zone;
 - (b) Within 500 feet of any public or private school, or any trade or vocational school that on a regular basis has at least one student under the age of eighteen (18) years;
 - (c) Within 500 feet of any church or other religious facility or institution;
 - (d) Within 500 feet of any park or any public facility or open space zone;
 - (e) Within 1500 feet of another adult concession.
- (3) No person owning, operating or managing an adult concession or their employee or agent shall invite, allow, or permit any person under the age of 18 years to enter or remain on the premises of any adult concession.
- (4) There shall be no window, marquee, or other display of any matter depicting or portraying specified anatomical areas, or specified sexual activities.
- (5) Violation of the use provisions of this section is declared to be a public nuisance perse, which shall be abated by a civil action only and not by criminal prosecution.
- (6) Adult Retail establishments shall be identified on the exterior of the establishment with a sign baring text only and using such terms as would be expected among the general public. No advertising, text, pictures or depictions shall be permitted anywhere in the windows, on the street (tent signs), store-front, marquee, or anywhere else other than on the approved signage. Terms such as "sale" etc. and other such advertising, as associated with mainstream advertising, will be accepted, subject to the interpretation of the Planning Director or an appointed official.
- (7) Nothing in this section is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building or use which violates any ordinance or statute of the City of Kennewick, County of Benton, State of Washington or the United States. (Ord. 5180 Sec. 1, 2007)

18.12.040: Animal Keeping: In R and HMU districts, dogs and cats of the age of 10 weeks or older, rabbits, guinea pigs, fowl, pigeons, chickens (excluding roosters) and similar small animals may be kept so long as no more than three of each kind or a combined total of six are kept. All cages, pens, and runs must be maintained in a clean and sanitary condition and meet setbacks. Animals and birds must not roam or fly to adjacent properties. Animals and birds and their surroundings must be maintained to prevent a nuisance due to noise or smell. An increase in the allowable number will be permitted upon issuance of a Land Use Permit in accord with Section 18.42. (Ord. 5542 Sec. 4, 2014: Ord. 5180 Sec. 1, 2007)

18.12.050: Automobile-Oriented Uses: No vehicle service apparatus may be within 15 feet of a public way. Except for necessary access, automatic washing equipment, hydraulic hoists, pits, lubricating equipment, food preparation and washing equipment and the like must be kept within a completely enclosed building. All washing residue must be biodegradable and drained in accord with applicable public works standards. (Ord. 5180 Sec. 1, 2007)

18.12.055: Car Washes, Vehicular Access/Circulation/Fencing/Operation: In CN zones, car washes shall be subject to the following:

- (1) The total number of bays shall be limited to three (3).
- (2) Noise:

- (a) Manufacturer's specifications clearly indicating level of noise submitted to City for review.
- (b) Noise shall be measured at receiving property in dBA to be conducted and approved by qualified professional acceptable to City.
- (c) Abutting residential property shall receive noise level not to exceed 57 dBA (KMC 9.52).
- (d) Noise generated by all associated equipment on site including vacuums must be designed, oriented and soundproofed to the extent that noise does not exceed that allowed in KMC 9.52.
- (3) Vehicular Access and Circulation:
 - (a) The business must front an arterial or collector street. The same access shall be used for the convenience store and the car wash.
 - (b) Stacking length shall provide at least two (2) vehicle spaces per wash line. All maneuvering area, stacking lanes, and exit aprons shall be located within the car wash parcel itself. Public streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the car wash.
- (4) Fencing (when abutting residential property):
 - (a) Minimum six-foot tall sight obscuring fence is required in conjunction with solid (visual) screen landscaping.
 - (b) The "Solid Screen" must be on the car wash side of the fence.
 - (c) The fence shall be constructed of masonry, wood, or tight-boards with the support on the car wash (site) side of the fence.
 - (d) The fence, solid landscape screen and other landscaping shall be permanently maintained and shall be kept structurally sound and safe.
- (5) Operation: Business hours shall be limited to between 6:00 a.m. through 8:00 p.m., except if automated and unmanned, a car wash would be available at all times.
- (6) All other applicable site planning standards and as required by the Kennewick Municipal Code shall apply. (Ord. 5657 Sec. 1, 2016; Ord. 5309 Sec. 12, 2010; Ord. 5180 Sec. 1, 2007)

18.12.060: Day Care Centers and Mini-Day Care Centers: Day Care Centers and Mini-Day Care Centers are allowed upon approval of a Land Use Permit for Site Approval and the following additional conditions:

- (1) A Washington State day care or mini-day care license is required.
- (2) Comply with all building, fire safety, health code, and business licensing requirements.
- (3) Setbacks, screening, landscaping, lot size, building site, and lot coverage must conform with the regulations of the applicable Zoning District.
- (4) Parking requirements must conform to Chapter 18.36.
- (5) Mini-Day Care Centers located in the family abode are only allowed in RMH, RS, RL, and RTP zoning districts upon approval of a Conditional Use Permit in accord with Chapter 18.42.
- (6) A six-foot high solid board fence, masonry wall, or screened chain link fence must surround the outdoor play area. Note: a see-through fence of stout construction may be approved by the Planning Director (Review II) if special conditions such as good security, quiet setting and visual/aesthetic conditions merit. The site must be landscaped in a manner compatible with adjacent residences.

(7) Any license required by the State or County must be obtained before issuance of a Business License.

(8) No structural or decorative alteration is allowed which will alter the residential character of an existing residential structure used for a mini-day care center. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood.

(9) Limitations in Use of Family Residence. No mini-day care center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for the children during the hours the center is in operation, or is separate from the usual living quarters of the family.

(10) Land use permits are not required for day care centers and mini-day care centers when established in conjunction with a church, school or similar public or quasi-public residential use. A six-foot (6') high solid board fence, masonry wall, or screened chain link fence must surround the outdoor play area. Any license required by the State or County must be obtained before issuance of a business license.

(11) Accessory Use. A day care center or mini-day care center, if sited on the premises of a public or quasi-public use (18.09.370) shall be considered accessory to the principal use of the property concerned. (Ord. 5462 Sec. 1, 2012; Ord. 5180 Sec. 1, 2007)

18.12.070: Family Day Care Home: A family day care home shall be permitted by right in all zoning districts permitting residences and shall be subject to the following requirements:

(1) A Washington State family day care home license is required.

(2) Comply with all building, fire safety, health code, and business licensing requirements.

(3) Lot size, building size, setbacks, and lot coverage conform to the standards of the zoning district except if the structure is a legal nonconforming structure.

(4) A safe passenger loading area must be provided.

(5) No structural or decorative alternative, which will alter the single-family character of an existing or proposed residential structure or be incompatible with surrounding residences is permitted.

(6) A residential use sign is permitted. (Ord. 5462 Sec. 2, 2012; Ord. 5180 Sec. 1, 2007)

18.12.080: Health Facilities: Rest homes, nursing homes, congregate care, and convalescent homes, hospitals, and similar health facilities must have any required State or County license before occupancy. (Ord. 5180 Sec. 1, 2007)

18.12.100: Junk: The storage or collection of junk, scrap, licensed or unlicensed, wrecked or inoperative vehicles, and equipment or parts thereof, or abandoned sheds, buildings or the like, are not permitted in any district. (Ord. 5204 Sec. 9, 2007; Ord. 5180 Sec. 1, 2007)

18.12.110: Kennels: Commercial kennels and animal shelters must be located on a parcel so that all runs, pens, and cages are at least 150 feet from a residential zoning district. The kennel must be developed and maintained in accord with the provisions of Section 18.42.080 with the following additional requirements:

(1) Kennels and animal shelters must be fully enclosed without open runs, and have interior walls, ceilings, and floors which are resistant to absorption of moisture and odors. Kennels in IH zoned areas may have open runs.

(2) Kennels and animal shelters must provide for a minimum of three air changes per hour and must be constructed so that noise from the kennels meet standards contained in Section 9.52.060. (Ord. 5180 Sec. 1, 2007)

18.12.120: Manufactured Housing Display Areas:

(1) Manufactured housing display areas are sales areas for living units that are constructed in a factory and transported to the residential setup location. Units in the display area must be used for display purposes only and must not be moved from the site except for replacement. Areas not used for parking, and a five-foot landscaped strip along all street frontages, must be improved with any combination of lawn, shrubs, decorative rock, etc. No portion of the display area, except pedestrian walkways, may be graveled. Storage areas for trade-ins must be graveled and kept weed free. Storage areas must be surrounded by a six-foot high sight-obscuring fence. A site plan is required as is a building permit for all permanent structures and sales offices. The display units need not be installed in accord with Chapter 15.60. All units must be skirted. Site improvements must conform with Chapters 13.12 and 18.27.

(2) HUD-approved manufactured housing or Washington State Department of Labor and Industries-approved commercial coaches may be used as an office for a period not to exceed 36 months. The office must be skirted and blocked to the manufacturer's specifications and a building permit will be required. The office must be integrated into the site's overall design, including landscaping. After three years, the office must be relocated to another HUD-approved current year model or replaced by a permanent structure in conformance with the International Building Code.

(3) A statewide association representing manufactured housing dealers may use a manufactured home as an office so long as it complies with other applicable building codes, zoning, and other land use regulations. (Ord. 5180 Sec. 1, 2007)

18.12.130: Mini-Storage Development Standards: The following requirements are applicable to all new mini-storage complexes and to expansions of existing facilities:

(1) Access driveways to all storage units shall be paved and shall include a storm water drainage system designed by a professional engineer or architect licensed in the State of Washington and be in conformance with the adopted City of Kennewick standards.

(2) Each doorway shall be lighted with a minimum of one (1) foot candle of luminance. Automatic photocell or motion-activated lights can fulfill this requirement.

(3) Exterior lighting shall be shielded or hooded so that direct light does not spill to adjacent properties.

(4) Mini-storage complexes shall be screened from view from adjacent Commercial and Residential zones. Screening shall be accomplished in one or a combination of the following manners:

- (a) A six-foot (6') masonry wall with one tree planted every fifty (50) feet along the side and rear yards, with trees to reach a height of at least thirty (30) feet at maturity; or

- (b) A six-foot (6') fence with a solid landscape screen as defined in KMC 18.21.030(2) and one tree planted every fifty (50) feet along the side and rear yards with trees to reach a height of at least thirty (30) feet at maturity.
- (c) Open style wrought iron fencing with masonry columns or similar may be used along street abutting property lines when complimentary landscaping and building design comparable to the commercial design standards is used along the street.
- (5) All buildings shall have an eave of at least one (1) foot.
- (6) In Commercial and Residential zones all buildings shall have a minimum of four feet of masonry wainscoting on the building exterior if visible from a public street.
- (7) Mini-storage complexes shall meet the requirements of KMC 18.21 for the office and parking lot areas as well as street frontage landscaping requirements.
- (8) Roofing materials shall be non-reflective to minimize glare on adjacent properties and public ways.
- (9) Barbed wire, razor wire and electric fences are not permitted.
- (10) Setbacks:
 - (a) Front: fifteen (15) feet;
 - (b) Side: five (5) feet;
 - (c) Rear: fifteen (15) feet;
 - (d) Primary entry gate: fifty (50) feet.
 - (e) When located in commercial zoning districts, mini-storage complexes shall be located a minimum of 150 feet from a street frontage property line. (Ord. 5647 Sec. 2, 2016; Ord. 5407 Sec. 7, 2012; Ord. 5180 Sec. 1, 2007)

18.12.140: Motels: If the motel is in an RH district, the motel must maintain a street frontage yard that is not used for parking and must be landscaped with at least a ten-foot (10') wide strip across the entire front yard. The landscaping must be any combination of lawn, shrubs, decorative rock, trees, etc. Except for such yard, a six-foot (6') high board fence or masonry wall must separate the property from any adjoining use. (Ord. 5180 Sec. 1, 2007)

18.12.150: Outdoor Theaters: Outdoor theaters must have ingress and egress which minimizes traffic congestion. The screen must be at least 400 feet from any R district and so situated that light and noise in no way disturbs residential property. (Ord. 5180 Sec. 1, 2007)

18.12.160: Public Parks and Playgrounds: Ball courts and similar play areas adjoining developed residential property must be fenced or screened with an appropriate barrier to prevent interference with the residential uses. (Ord. 5180 Sec. 1, 2007)

18.12.165: Prohibited Marijuana Uses: The production, processing and retail sales of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in Revised Code of Washington Chapter 69, and implementing regulations in Chapter 314-55 of the Washington Administrative Code, are each prohibited and not allowed in any zone in the City of Kennewick. (Ord. 5566 Sec. 3, 2014)

18.12.170: Recreational Vehicle Park: Where allowed, such use shall meet the following requirements:

- (1) The minimum size of the recreational vehicle park shall be ten (10) acres.

(2) The maximum gross density allowed shall be one recreational vehicle space per each 2,000 square feet of land area.

(3) No less than ten percent (10%) of the total site area shall be provided as defined recreation space. The recreation space shall be easily accessible and shall be improved and maintained in such a manner so as to provide adequate recreational facilities for the residents of the recreational vehicle park. Any three of the following list of recreational amenities must be included in the development of a recreational vehicle park:

- (a) Basketball court;
- (b) Tot lot/playground;
- (c) Barbecue pit;
- (d) Horseshoe pits;
- (e) Shuffleboard court; or
- (f) Pool.

(4) When more than three of these amenities are provided and approved by the Planning Director, the recreation space requirement may be reduced by a total of ten percent.

(5) Each recreational vehicle space shall have a minimum width of 25 feet.

(6) Interior private streets shall observe the following minimums:

- (a) Twenty feet of width per each travel lane and eight feet of width per each parking lane;
- (b) Improvement with paved surface treatment in accordance with the specifications of the city engineer. In addition, all streets shall be well drained, well lighted, and continuously maintained in operable condition.
- (c) A minimum turning radius of 35 feet.

(7) Spacing Between Units. There shall be a minimum side-to-side dimension of 12 feet between units and a minimum end-to-end dimension of 10 feet between units.

(8) Minimum Setbacks Required. The following setback requirements shall apply:

- (a) Twenty-five feet from a public street;
- (b) Fifteen feet from the park boundary.

(9) Off-street Parking. A minimum of one off-street parking space shall be required for each recreational vehicle space. It shall be located within the recreational vehicle space. In addition, one off-street parking space per each eight recreational vehicle spaces shall be required for guest parking. The guest parking spaces shall be grouped and distributed evenly throughout the park.

(10) Pedestrian Walkways. Pedestrian walkways having a width of not less than three feet shall be provided from the recreational vehicle spaces to all service buildings and facilities, including guest parking areas, refuse collection areas, and along all interior streets and recreation areas. The walkways shall be hard-surfaced, designed to drain storm water from the walkway and prevent pooling of water, and be well lighted.

(11) Landscaping. On-site landscaping to enhance and beautify the recreational vehicle park as well as minimize noise and visual impact of the park shall be provided in accordance with KMC 18.21. Additionally, one two-inch caliper shade tree is required per space. Shade tree planting must include at least three species.

(12) Limit of Stay. No recreational vehicle shall remain in place in a recreational vehicle park for more than 120 days in any calendar year period.

(13) Solid Waste Disposal. The storage, collection, and disposal of solid waste in recreational vehicle parks shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, or accident, or fire hazards. Individual or grouped refuse

containers must be screened from view except on collection day. All solid waste receptacles shall be enclosed with a fence of masonry wall of at least six feet in height.

- (14) Utilities. The following requirements for utilities shall apply:
 - (a) A water supply system shall be provided in the recreational vehicle park for each recreational vehicle space designed to accommodate the park user occupying a self-contained recreational vehicle or a dependent recreational vehicle and shall be connected to a public water supply system.
 - (b) The water system shall be constructed and maintained in accordance with all applicable state and local codes and regulations.
 - (c) Watering Stations. Each recreational vehicle park shall be provided with one or more easily accessible water supply outlets for filling recreational vehicle water storage tanks.
 - (d) Sewage Disposal System. An adequate and safe sewage disposal system shall be provided in a recreational vehicle park for each recreational vehicle space designed to accommodate the park user occupying a self-contained vehicle and shall be connected to public sewerage system. The sewage disposal system in a recreational vehicle park shall be constructed and maintained in accordance with all applicable state and local codes and regulations.
 - (e) Sanitary Stations. Each recreational vehicle park shall be provided with sanitary dumping stations in the ratio of one for every one hundred recreational vehicle spaces or fractional part thereof. Sanitary stations shall consist of at least a trapped four-inch sewer riser pipe with a two-inch screened grate connected to the sewage disposal system and surrounded at the inlet end by a concrete apron sloped to the drain and provided with a suitable lockable cover; and, a water outlet, with the necessary appurtenances connected to the water supply system to permit periodic wash-down of the immediate adjacent areas. A sign shall be posted near the water outlet indicating that this water is for flushing and cleaning purposes only. Sanitary stations shall be screened from other activities by a visual barrier such as fences, walls, or natural growth and shall be separated from any recreational vehicle space by a distance of not less than 50 feet.
 - (f) Electrical Supply System. Each recreational vehicle space shall be provided with an underground electrical system providing a minimum of fifty (50) amperes and shall be installed and maintained in accordance with all applicable state and local codes and regulations.
 - (g) Other Utility Systems. If other utility systems such as natural gas, television cable, or telephone are installed in a recreational vehicle park, such installation shall be in accordance with state and local codes and regulations.
- (15) All recreational vehicle parks shall comply with rules and regulations of the Washington State Board of Health.
- (16) All recreational vehicle spaces shall be marked and numbered in conformance with KMC Title 15.
- (17) Direct light from the interior of the park cannot be visible from outside the park. Interior lighting shall be shielded or hooded to prevent light spillage outside the park. Interior streetlights shall be no higher than eight feet above ground. One interior streetlight is required for every two spaces.

(18) An eight-foot high vegetative landscape buffer in accordance with KMC 18.21.030 (2) is required on all sides of the park that abut property with a less intense zoning district.

(19) All spaces must be within 300 feet of an ash disposal receptacle.

(20) Storage sheds are not permitted.

(21) There may be a dwelling for the park manager on site.

(22) Campfires are not allowed, except in established barbecue pits.

(23) Enclosed bathroom/laundry/shower facilities are required.

(24) All non-impervious (non-concrete/asphalt) areas in a space shall be planted with irrigated lawn or landscape stone and native plantings.

(25) Cable and telephone service are required on at least 50% of sites in a park.

(26) Campers detached from pickup trucks must be lowered and blocked, and may only be detached for periods not exceeding five days.

(27) Tents are permitted only if an area has been set aside for their use and is supported by dedicated parking and permanent shower and restroom facilities. The total area for such secondary use may not be more than 10% of the total gross site.

(28) Recreational Vehicle Park Site Plan Requirements:

(a) Application Fee. The application for approval of a recreational vehicle park shall be accompanied by a site plan review application fee in accordance with the City's fee schedule;

(b) Site Plan. The application shall be accompanied by the number of copies dictated at the permit counter of a site plan, which shall contain, but not necessarily be limited to the following:

(i) Name of the owner and operator, with address and phone numbers; and the name of the proposed recreational vehicle park;

(ii) Legal description of the subject tract of land;

(iii) Name, address, and phone number of the person or firm preparing the site plan;

(iv) Scale of the drawing and north arrow;

(v) The area and dimensions of the tract of land;

(vi) The number, size, and location of all recreational vehicle spaces;

(vii) The number, location, and size of all off-street automobile parking spaces;

(viii) The location and width of all streets and walkways;

(ix) The location of service buildings, sanitary stations, recreation area, and any other proposed facilities or structures;

(x) Location of all utility lines and easements;

(xi) Specifications of the water supply, sewage disposal, electrical supply, and refuse collection systems;

(xii) Specifications of all buildings, recreation uses, and other facilities to be constructed;

(xiii) Landscaping specifications of sufficient detail to assure effectiveness of purpose;

(xiv) Topography at five 15-foot contour intervals;

(xv) A vicinity map indicating the names and location of all streets within at least a quarter-mile radius of the subject site;

(xvi) Location and specifications of the manager's office and dwelling unit; and

- (xvii) The site plan map shall be drawn at a scale of not larger than 30 feet to the inch, nor smaller than 100 feet to the inch, and shall be clear and precise. If necessary the site plan can consist of more than one drawing. (Ord. 5180 Sec. 1, 2007)

18.12.180: Recreational Vehicle Storage: The following requirements are applicable to all new recreational vehicle storage areas and to expansions of existing facilities:

- (1) Access driveways shall be paved; and storage areas shall be paved or prepared with three inches of 5/8 minus gravel topped by one-inch of one-inch rolled rock and shall include a storm water drainage system designed by a professional engineer or architect licensed in the State of Washington; maintained in a weed free condition; be regravelled as necessary to eliminate dust; and must be subject to a designated and approved customer parking plan that includes physical markers for storage areas and barriers for access drives.
- (2) Exterior lighting shall be shielded or hooded so that direct light does not spill to adjacent properties.
- (3) In addition to the requirements of KMC 18.21, Landscaping, all storage complexes shall have a minimum five (5) foot landscaped area meeting KMC 18.21.060(1)(a) when adjacent to a residential zoning district.
- (4) Roofing materials shall be non-reflective to minimize glare on adjacent properties and public ways.
- (5) All outdoor storage areas shall be screened with an eight (8) foot high sight-obscuring fence.
- (6) Barbed wire, razor wire, and electric fences are not permitted.
- (7) When located in CC and CG zoning districts, recreational vehicle complexes shall be located a minimum of 150 feet from a street frontage property line. (Ord. 5180 Sec. 1, 2007)

18.12.190: Rooming Houses and Boarding Houses:

- (1) A rooming house or boarding house must have at least one and one-half (1½) off-street parking spaces for each individual unit bedroom.
- (2) Only one sign not exceeding six square feet, indicating the name of the establishment, and a one square foot sign indicating room for rent are permitted.
- (3) Cooking and sanitary facilities for all rooming houses and boarding houses must be in accord with regulations of the Benton-Franklin District Health Department. (Ord. 5180 Sec. 1, 2007)

18.12.200: Satellite Dishes: Satellite dishes must observe all setbacks. The setback will be measured to the nearest point on the satellite structure. (Ord. 5180 Sec. 1, 2007)

18.12.210: Stables, Corrals, and Riding Academies: Public and private stables, corrals, and riding academies must be located on a parcel of at least five acres in a Residential, Suburban (RS) zone. Stables and barns may be no closer than 75 feet to the property line or to a dwelling unit on abutting property. Corrals, exercise yards and riding rings, and open-air storage of hay, straw, shavings, and other such material must be at least 35 feet from the property line or 45 feet from a dwelling unit on abutting property. (Ord. 5180 Sec. 1, 2007)

18.12.220: Storing of Commercial Vehicles: No commercial vehicles may be parked overnight or routinely, in any R district except as allowed in a home occupation permit issued in accord with Section 18.42.090 and if the commercial vehicle does not exceed 10,000 pounds gross weight. (Ord. 5558 Sec. 1, 2014; Ord. 5407 Sec. 8, 2012; Ord. 5180 Sec. 1, 2007)

18.12.230: Subdivision Sales Areas, Equipment, and Material Yards: Neat and orderly subdivision sales areas, equipment and material yards and other appurtenant uses are permitted for not more than one year. The Planning Director may grant extensions or limit this time for good cause shown. (Ord. 5180 Sec. 1, 2007)

18.12.240: Swimming Pools: Swimming pools may not be within five feet of a property line nor have less than three feet of continuous unobstructed access. Water from a swimming pool may not drain onto adjacent property. The swimming pool, or the property on which it is located, must be enclosed by a four-foot fence or wall to prevent uncontrolled access from the street or adjacent properties. (Ord. 5180 Sec. 1, 2007)

18.12.250: Temporary and Parking Lot Businesses:

- (1) General requirements:
 - (a) A City of Kennewick business license is required;
 - (b) The use of City property requires approval of a lease, background check, a hold harmless agreement and an insurance policy naming the City of Kennewick as an additional insured in the amount of one million dollars; or
 - (c) The use of City property requires approval of a lease, background check, a hold harmless agreement, and an insurance policy naming the City of Kennewick as an additional insured in an amount approved by the City Attorney;
 - (d) Operation in a city park also requires approval of a concessionaires permit;
 - (e) Any business-related discharge into the sanitary or storm sewer systems requires the written approval of the Public Works Director;
 - (f) Written approval from the Benton-Franklin County Health District is required if food is served or if restrooms are required;
 - (g) Buildings must be on a permanent perimeter foundation or otherwise fastened and designed to secure the structure for a minimum of a 70-mile per hour wind load;
 - (h) The Fire Marshall must review and approve the use of a tent for applicable requirements of the Uniform Fire Code;
 - (i) No structure or temporary use may be within five feet of any right-of-way. Sight distance triangles must be observed;
 - (j) There must be adequate off-street parking provided in accord with KMC 18.36. The site must be paved or graveled;
 - (k) If on the same parcel as an existing business the minimum off-street parking for the primary business must be maintained;
 - (l) The temporary business must submit an accurate site plan drawn to scale depicting the following:
 - (i) The parcel lines and right-of-way lines;
 - (ii) The boundaries of the portion of the property to be used by the temporary business;

- (iii) The parking area, which is to be used by the temporary business and the driveways to be used for access;
- (iv) Drive areas must remain open and all pedestrian walkways must remain passable;
- (v) The location and dimension of existing structures as well as the location and dimension of all structures, vehicles, and signs to be used by the temporary business;
- (vi) How any temporary on-site residency and sanitation is to be accommodated;
- (vii) Proposed operating hours.
- (m) The business license must list the Washington state tax number including the City's location code number;
- (n) All signs, circulars, and other advertising material must be removed within three days of the termination of the business;
- (o) There must be adequate provisions made for dust and litter control;
- (p) The applicant must submit the property owner's written consent for the use of premises;
- (q) All electrical facilities must be inspected and approved by the Washington State Department of Labor and Industries;
- (r) Temporary businesses must conform to the noise standards set forth in KMC 9.52;
- (s) The applicant must show evidence of any required State licenses with the application for a business license;
- (t) No business shall be located in the parking area immediately adjacent to the entrance to another business without the written permission of the affected business owner;
- (u) All temporary and parking lot businesses that cannot demonstrate legal non-conforming status must be in compliance with the requirements of the section within one year from the date of adoption;
- (v) No vision obstructions within the vision clearance triangle are permitted.
- (2) Permanent small building businesses:
 - (a) Must meet all applicable regulations including but not limited to: parking, landscaping, and signage;
 - (b) Businesses with drive through windows must have a minimum of six (6) stacking stalls per KMC 18.36.060;
 - (c) Businesses with outdoor (or under-tent) seating must meet the applicable requirements of the International Building Code for employee and customer restrooms;
 - (d) The business must be connected to public water and sewerage systems.
- (3) Long term temporary stands:
 - (a) Shall locate in Kennewick for a maximum of 180 consecutive days annually;
 - (b) The structure used must be removed within 10 days of the business closing for the year;
 - (c) The business must operate from a structure;
 - (d) Shall locate only in the CC, CG, CR and IL zoning districts.
- (4) Short term temporary stands:
 - (a) The business must operate from a structure;

- (b) The structure used must be removed within three days of the business closing for the year;
- (c) The business shall locate for no more than two non-consecutive 30-day periods within one calendar year at any one location;
- (d) All short term temporary businesses must be on the same parcel and secondary to a principle permitted use, locate within a zone that allows public and quasi-public uses and must comply with all regulations, including permitted use, appertaining to that district except as modified by this section.
- (5) Vehicle based food businesses:
 - (a) Allowed in CO, CBD, CC, CG, CM, CR, BP, IL, IH, OS, and PF zoning districts;
 - (b) Standing. No vehicle based business operator shall stand or allow their vehicle to stand upon any public way for more than one hour in any one place, except as otherwise permitted;
 - (c) Outdoor seating is not permitted, except as stated in subsection (f) below;
 - (d) Except as stated in subsection (f) below, a vehicle based business shall operate in the same location for a maximum of 30 days in addition to the requirements of subsection (b) above;
 - (e) The business shall not function as a drive-through.
 - (f) The following standards apply to operation within the Bridge to Bridge River to Rail subarea.
 - (i) Vehicle based food businesses may operate without a maximum time limit and have outdoor seating;
 - (ii) In determining whether or not the proposed location would be permitted, the following criteria shall be considered:
 - (A) The type and intensity of the proposed use and the type and intensity of existing uses;
 - (B) The width of the sidewalk, pedestrian plaza or parking lot in which it is to be located;
 - (C) The proximity and location of existing street furniture, including but not limited to signposts, lampposts, bus shelters, benches, phone booths, trees, newsstands, as well as the presence of bus stops and truck loading areas;
 - (D) Established or proposed pedestrian and vehicular traffic patterns;
 - (E) The number of vehicle based food businesses in a given area;
 - (F) Other factors deemed relevant by the approving authority, consistent with the purpose of this chapter and intent of the subarea zone proposed for the use.
 - (G) The vehicle based food business shall be placed in a parking area that must be surfaced with asphalt or Portland cement binder pavement to provide a durable and dustless surface.
 - (iii) In addition to the requirements to establish compliance with KMC "Temporary and Parking Lot Business" General Requirement 18.12.250(1) and other codes as applicable, the following items specific to Vehicle Based Food Businesses are required:
 - (A) Site plan including outdoor seating layout.

- (B) Restroom agreement.
- (C) Discharge plan for used oils and graywater.
- (iv) Vehicles must be currently licensed, operable, and able to leave a site at any time under their own power.
- (v) No vehicle based food vendor shall locate his or her vehicle or other conveyance in such a manner as to cause a traffic hazard.
- (vi) No vehicle based food vendor shall obstruct or cause to be obstructed the passage of a sidewalk, street, avenue, alley or any other public place by causing people to congregate at or near the place where food is being sold or offered for sale.
- (vii) The vending site shall be kept clean and orderly at all times, and the vendor must provide a refuse container and is encouraged to provide containers for recycling. Refuse, debris, and liquid spills by any person using the business location shall be cleaned up daily, and refuse containers emptied on a regular basis.
- (viii) Support equipment and accessories shall generally be self-contained within the vendor unit and site. Support equipment and accessories, including accessory seating and tables, must not be placed so as to impede pedestrian or vehicular traffic or distract from the pedestrian experience.
- (ix) Outdoor equipment shall be low maintenance and cleanable, durable, and preferably painted or of noncorrosive metal.
- (x) No portion of a vendor's inventory, sales equipment, or any other structure or equipment used in the sales or solicitation process shall be left overnight upon any unenclosed portion of any lot or site within the City, nor upon any public street or right-of-way.
- (xi) The City reserves the right to limit the number of vehicle based food vendors in any given area of the Bridge to Bridge River to Rail Subarea. City review may consider the needs of the public, diversity of products offered for sale, the smooth flow of pedestrian and vehicular traffic, number of complaints, and locations where vendors are located.
- (xii) At the conclusion of business activities at a given location, the vehicle, ancillary equipment, and debris generated by the vendor's business activities shall be removed and the site and public area surrounding it cleaned.
- (6) Cart businesses:
 - (a) The cart must be stored indoors or off-site when not open for business;
 - (b) Allowed in CN, CO, CBD, CC, CG, CM, CR, BP, IL, IH, OS, and PF zoning districts;
 - (c) Operation in a city park also requires approval of a concessionaires permit;
 - (d) Standing. No cart-based business operator shall stand or allow their vehicle to stand upon any public way for more than two hours in any one place;
 - (e) The business shall not function as a drive through.
- (7) Trade shows, circuses, carnivals, outdoor concerts, bazaars, festivals, or similar temporary uses including religious meetings, rallies, and revival tents must obtain a permit in accord with Chapter 6.47. The use must comply with the following:

- (a) The use will be allowed for no more than two non-consecutive ten (10) day periods annually;
- (b) No structure or activity shall be within 300 feet of a residential district. The activity must not seriously interfere with traffic, emergency services, or other normal City operations. Adequate off-street parking as well as access must be provided;
- (c) Residential districts must be shielded from disruptive sounds and noises;
- (d) Provisions must be made for the control of dust and litter;
- (e) Parking Facilities. The applicant shall submit a plan showing adequate parking facilities on or adjacent to the location where the event is to be held. At least one (1) parking space for every four (4) persons expected to attend shall be provided. All parking facilities shall be off the public right-of-ways and adequate ingress and egress shall be provided to and from the area to facilitate the movement of vehicles. If non-adjacent parking facilities are approved, the permittee shall provide shuttle bus service on a no-charge basis;
- (f) Traffic Control. The License Officer shall ensure that adequate traffic and crowd control has been provided.
- (g) Traffic and crowd control personnel shall be approved by the License Officer. One (1) traffic control officer and one (1) crowd control officer may be required if more than two hundred (200) people can reasonably be expected to attend the event, and more may be required if conditions warrant. The cost of crowd and traffic control must be borne by the permittee. If at any time the size of the crowd exceeds by twenty percent (20%) the number of people represented by the permittee to be in attendance, the License Officer may require the permittee to limit further attendance;
- (h) Temporary Accommodations. If temporary campsites, trailer parks, or other accommodations are provided, adequate sanitary facilities must be provided and minimum fire safety standards must be met. Adequate access and parking must be established, and provisions made for the maintenance of order and security at all times; and
- (i) No outdoor musical assembly or similar activity shall be conducted between the hours of 12:00 A.M. and 9:00 A.M., nor circus or carnival between 2:00 A.M. and 9:00 A.M., and permittee shall clear the licensed area no later than 1:00 A.M. or 3:00 A.M. respectively.
- (8) Seasonal and non-seasonal merchandise in conjunction with an existing business:
 - (a) Outdoor display and sales of general merchandise are allowed for no more than three non-consecutive ten (10) day periods annually when conducted in the parking area;
 - (b) Outdoor display and sales of automobiles, recreational vehicles, boats, and similar vehicles are allowed for no more than twelve (12) non-consecutive five (5) day periods annually when conducted in the parking area;
 - (c) Where vehicles are displayed for sale the transaction must occur within the City of Kennewick;
 - (d) Outdoor display and sales of seasonal merchandise is allowed for a maximum of 90 consecutive days annually; and

- (e) Merchandise display areas must meet minimum required setbacks in conformance with the Uniform Fire Code. (Ord. 5671 Sec. 1, 2016; Ord. 5663 Sec. 1, 2016; Ord. 5434 Sec. 7, 2012; Ord. 5431 Sec. 1, 2012; Ord. 5180 Sec. 1, 2007)

18.12.255: Temporary Homeless Encampments:

(1) An application for a temporary homeless encampment permit will be reviewed and decided upon by the Planning Director (hereafter "Director") in accordance with Kennewick Municipal Code Section 18.42.105. The temporary homeless encampment applied for must meet the following standards:

- (a) An application for a temporary homeless encampment permit must include a religious organization as a sponsor or managing agency.
- (b) The proposed site of the temporary homeless encampment must be on property owned or controlled by the religious organization.
- (c) The applicant shall submit an irrevocable, signed, and notarized statement granting the City permission to summarily abate the temporary use and all physical evidence of that use if it is not removed by the applicant within the period specified as part of the permit, and agreeing to reimburse the City for any expenses incurred by the City in abating the temporary use.
- (d) The encampment shall meet all setbacks for the zoning districts described in Section 18.12.010 of the Kennewick Municipal Code. The encampment shall be located a minimum of 20 feet from the property line of abutting properties containing residential uses.
- (e) The Director may require a sight-obscuring fence around the perimeter of the encampment unless it is determined that there is sufficient vegetation, topographic variation, or other site conditions such that fencing would not be needed.
- (f) Exterior lighting for the homeless encampment must meet the requirements of Kennewick Municipal Code Section 18.39.030.
- (g) The maximum number of residents at a temporary homeless encampment site shall be determined by the Director taking into consideration site conditions, but in no case shall the number be greater than 100 people.
- (h) Parking requirements shall be determined by the Director taking into consideration site conditions and information about the proposed encampment contained in the application.
- (i) The applicants shall submit a transportation plan which shall include provision of transit services. The homeless encampment shall be located within one-half (1/2) mile of transit.
- (j) No children under the age of eighteen (18) are allowed in the homeless encampment. If a child under the age of eighteen (18) attempts to stay at the homeless encampment, the managing agency shall immediately contact Child Protective Services.

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- (k) No animals shall be permitted in the encampments except for service animals.
- (l) The applicant shall submit a code of conduct for the encampment and describe how it is to be enforced by the managing agency. The code shall contain the following at a minimum:
- (i) No drugs or alcohol;
 - (ii) No weapons;
 - (iii) No violence;
 - (iv) No open flames;
 - (v) No loitering in the surrounding neighborhood; and
 - (vi) Quiet hours.
- (m) The managing agency shall ensure compliance with Washington State and City codes concerning, but not limited to, drinking water connections, human waste, solid waste disposal, electrical systems, and fire-resistant materials. The City shall coordinate review of the temporary homeless encampment permit with the Benton County Health District and Kennewick Fire Department to check compliance with the standards for homeless encampments.
- (n) The managing agency shall take all reasonable and legal steps to obtain verifiable identification from prospective encampment residents and use the identification to obtain sex offender and warrant checks from the appropriate agency. All requirements by the City of Kennewick Police Department related to identified sex offenders or prospective residents with warrants shall be met.
- (o) The sponsor and the managing agency shall immediately contact the Kennewick police department if someone is rejected or ejected from the encampment when the reason for rejection or ejection is an active warrant or a match on a sex offender check, or if, in the opinion of the sponsor or managing agency the rejected/ejected person is a potential threat to the community.
- (p) The managing agency shall permit daily inspections by the City and/or Health Department to check compliance with the standards for homeless encampments.
- (q) Homeless encampments may be approved for a time period not to exceed six months.
- (r) A three-month separation will be required between temporary homeless encampments at the same location.
- (s) Simultaneous temporary homeless encampments may not be located within 1,000 feet of each other.

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18.12.260: Trailers, Boats, Camper Tops, Travel Trailers, and Recreational Vehicles:

- (1) Trailers, boats, camper tops, travel trailers, recreational vehicles and the like owned by a person residing on the premises may be stored in an R (all), and HMU district but not within a public way. All such storage must comply with street frontage setbacks.
- (2) Construction offices may be located on any premises for which a building permit is issued and may remain in place up to the time the applicable building permit expires.
- (3) Temporary quarters for laborers on construction sites for the duration of construction may be permitted in any zoning district except for residential construction and except in "CN", "CO", "CM", "IP", "PF", and "OS" zones, through approval of a Land Use Permit (18.42.110).
- (4) Any structures placed under this Title must comply with Single Family design standards. (Ord. 5180 Sec. 1, 2007)

18.12.270: Transportable Units: Transportable units may be used for storage purposes when ancillary to a permitted use in C, I, PF, and OS zones, provided, that all setbacks and access requirements are met.

- (1) Transportable units that are uniformly painted and in good repair may be used for temporary storage in subdivision sales areas and equipment yards (18.12.270) and in C, I, PF, and OS zones for storage during construction and/or remodeling after a building permit has been issued. The units shall be removed from the site once the permit expires or at the end of twelve months, whichever occurs first. Screening is not required in these instances.
- (2) Transportable units may also be used for temporary storage in "R" and "HMU" zones for new residential construction or remodeling after a building permit has been issued. The units shall be removed from the site at the expiration of the building permit. In no case shall the units remain on the site for more than twelve months. (Ord. 5180 Sec. 1, 2007)
- (3) Transportable units, railroad boxcars and freight cars in "R" districts that are visible and less than 125 feet from a public street must be completely surrounded by a sight-proof fence and/or landscaping (18.21.060(2)) or removed before October 31, 2004. (Ord. 5180 Sec. 1, 2007)

18.12.280: Trash Containers: All garbage cans, bins, dumpsters, containers and other garbage receptacles within C, I, BP, PF, and OS Districts or serving multi-family dwellings must be within a completely enclosed building or screened from view by a sight-obscuring wall or fence at least six feet high and with a gate or door or similar sight-obscuring material to provide access. All enclosures must be at least 20 feet from any residential use. No garbage, trash, waste or other refuse may be allowed to accumulate around or within the enclosure. (Ord. 5309 Sec. 14, 2010; Ord. 5180 Sec. 1, 2007)

18.12.290: Veterinary Clinic or Hospital: All animals must be confined inside the veterinary clinic or hospital; except animals may be kept in exterior pens and runs upon approval of a Land Use Permit for a conditional use issued in accord with Section 18.42. Dead animals must be disposed of in accord with all applicable regulations. (Ord. 5180 Sec. 1, 2007)

18.12.300: Volatile Toxic and Volatile Flammable Material Storage: The bulk storage, as defined by the Uniform Fire Code, of such material will only be permitted in the IH district upon approval of a conditional use in accord with Section 18.42.100. Such storage must be provided with adequate safety devices to guard against the hazard of over-pressurization or heating caused by sunlight, fire or heating equipment. Adequate fire suppression and firefighting equipment and devices are to the approval of the City Fire Chief. Review of the conditional use will include a review of all routes for transport of the material. (Ord. 5180 Sec. 1, 2007)

18.12.305: Wineries: In addition to the general review criteria in 18.42.100 for Conditional Uses and 18.42.110 for Site Plans, the following standards shall apply:

- (1) Wineries with primary processing and on-site fermentation (Type B) are permitted in the CC, CR and CG zones only when it can be shown that they significantly contribute to the continuing pedestrian-oriented commercial development of the area.
- (2) Traffic and material handling activities are of a scale typical of commercial deliveries in the area and zone within which the use is proposed.
- (3) Traffic and material handling activities do not disrupt vehicle and pedestrian traffic operations normally conducted in the area and zone within which the use is proposed.
- (4) Crushing and fermentation operations shall be managed such that by-products are contained and disposed of in a manner that does not generate spillover effects onto adjacent property, public spaces, or public right-of-way. A waste management plan needs to be submitted for approval that specifies the storage, collection and disposal of wine by-products. Approval of connection to the City sanitary sewer system including any required pre-treatment system shall be submitted as part of the Conditional Use or Site Plan applications.
- (5) Mitigation of environmental effects including but not limited to noise, odors, insects, and reuse of water resources shall be addressed.
- (6) If events are planned within the winery, they shall be specified during the permit approval process with regards to proposed hours, days and frequency of events. Maximum number of participants shall be restricted according to the capacity of the building, available parking and street improvements. (Ord. 5244 Sec. 2, 2008)

18.12.310: Wireless Communication Facilities: The purpose of this section is to provide predictability to service providers in the permitting process and to allow for site development issues to be addressed through clear and objective siting criteria and development standards. Collocation on existing structures is strongly encouraged to allow for the increased need for wireless communication facilities while minimizing the adverse visual impacts of such facilities.

- (1) Collocation of wireless antennas on existing structures is allowed in all zoning districts. The parent structure can be a cellular tower, building, public power line, light pole, other public utility structure, or any multiple-family structure of four units or more. Approval is subject to the following:
 - (a) The addition of a wireless facility with antenna cannot extend more than 20 feet above the highest point of the parent structure.
 - (b) The property owner must provide written permission and the total height of the parent structure must be provided to and approved by the city.
 - (c) Location on single family, duplex and triplex dwellings is not permitted.

- (d) License agreements must be obtained if in a public right-of-way.
- (e) All antennas must be painted a neutral, non-reflective color that will blend with the surrounding landscaping and parent facility. Recommended shades are gray, beige, sand, taupe, or light brown. A color chip or other sample of the proposed color must be approved by the Planning Director.
- (f) All collocations of wireless antenna must comply with the noise standards contained in KMC 9.52.
- (g) The parent structure shall have been occupied or completed at least six (6) months prior to installation of the subject wireless facility and/or antenna.
- (2) Applications for collocations must include:
 - (a) The type and dimensions of proposed antenna.
 - (b) Written confirmation that upon abandonment of the site, the City of Kennewick will receive a copy of the notice supplied to FCC. The owner of the wireless facility will be responsible for removing the facility and accessory structures within 60 days of the receipt of that notice by the city. Written confirmation for each operational site is required by February 1st of every calendar year
- (3) New wireless communication facilities, as defined in KMC 18.09.2220 up to 55 feet in height, are permitted uses in all Commercial, Industrial, and Public Facility Districts except "CN" (Commercial, Neighborhood) Districts. The only type of tower allowed for wireless communication facilities are monopoles. New guyed towers or latticed towers are prohibited. New wireless communication facilities, other than collocated facilities, are prohibited in all other zoning districts. A site plan must be approved in accord with KMC 18.42.
- (4) An application for site plan approval of a new wireless telecommunication facility must include the following information in addition to that required as per KMC 18.42.110:
 - (a) The type and dimensions of proposed antenna.
 - (b) Written confirmation that upon abandonment of the site, the City of Kennewick will receive a copy of the notice supplied to FCC. The owner of the wireless facility will be responsible for removing the facility and accessory structures within 60 days of the receipt of that notice by the city. Written confirmation for each operational site is required by February 1st of every calendar year.
 - (c) A hold harmless agreement indemnifying the City of Kennewick from damage caused by structure failure of a wireless communication facility must be filed with the City for each new wireless communication facility site by the telecommunication provider.
- (5) The following development standards are required for site plan approval for new monopoles. These development standards do not apply to collocated facilities:
 - (a) No wireless communication facility may be located within 100 feet of any residential zoning district as measured from the base of the monopoles. Monopoles in Commercial, Industrial and Public Facility zones need only to comply with the setbacks required in the specific zone.
 - (b) All mechanical and technical appurtenances visible from a public street must be screened with a sight-obscuring fence at least six feet in height. Fencing must be provided around the base of the facility and any accessory buildings.

- The fencing material must be wood or masonry. Chain link fencing with inserted slats does not fulfill the sight-obscuring requirement. Electric fences and barbed wire are not permitted. A locking gate is required.
- (c) When wireless communication facilities are located on parcels of land that abut residentially-zoned parcels, a five-foot landscaped area is required outside of the fenced area of the site when there is an above-ground accessory building provided. Trees are to be provided at the ratio of one for each ten feet of fencing distance. Climbing evergreen shrubs or vines can be substituted for the required trees and must be planted at the ratio of one for each three feet of fencing distance. The ground cover must be live vegetative planting. All landscaping must be maintained as per KMC 18.21.
 - (d) All wireless facilities must comply with the noise standards contained in KMC 9.52. (Ord. 5180 Sec. 1, 2007)

18.12.320: Planning Director Interpretation of Unlisted Uses: If a proposed use is not specifically listed in table 18.12.010 in a specific zone, the Planning Director may promulgate an interpretation as to whether or not such use is to be a permitted use. The Planning Director shall determine whether it closely resembles another listed use. Any use which is determined not to fit in the zone shall not be permitted. In determining whether a proposed use closely resembles a use expressly authorized in the applicable zoning district(s), the Planning Director shall determine whether the proposed use meets the following criteria:

- (1) The use resembles or is of the same basic nature as a use or uses expressly authorized in the applicable zoning district or districts in terms of the following:
 - (a) The activities involved in or equipment or materials employed in the use;
 - (b) The effects of the use on the surrounding area, such as traffic impacts, noise, dust, odors, vibrations, lighting and glare, and aesthetic appearance;
 - (c) The use is consistent with the stated purpose of the applicable district or districts; and;
 - (d) The use is compatible with the goals and policies of the Kennewick Comprehensive Plan.
- (2) The Planning Director's determination may be appealed as provided for in this title. (Ord. 5180 Sec. 1, 2007)

18.12.350: Additional Conditions: Additional conditions to mitigate adverse environmental impacts and to provide consistency with the City of Kennewick Comprehensive Plan Goals and Policies may be imposed in addition to or in place of those set out in this title, as determined by the Planning Director where conflicts arise. (Ord. 5180 Sec. 1, 2007)

CHAPTER 18.42

LAND USE PERMITS

SECTION:

- 18.42.010: Purpose
- 18.42.020: Applications for Permits
- 18.42.030: Action
- 18.42.040: Conditions of Approval
- 18.42.050: Compliance With Permits
- 18.42.060: Term of Permits
- 18.42.080: Additional Animals
- 18.42.090: Home Occupations
- 18.42.100: Conditional Uses
- 18.42.105: Temporary Homeless Encampment Permit
- 18.42.110: Site Plans
- 18.42.120: Minor Variations
- 18.42.140: Mixed Use Site Plan

18.42.010: Purpose: This Chapter establishes an expeditious method for the review and approval of various land use permits. It is intended to promote the development of land in a manner, which is not detrimental to the public health, safety or welfare or to adjacent properties, allow certain additional uses in some districts, allow for more flexible development and allow certain minor variations from normal development standards. (Ord. 5180 Sec. 1, 2007)

18.42.020: Applications for Permits:

- (1) Director Approval. All permits issued under this Chapter are to the approval of the Director.
- (2) Procedure:
 - (a) All applications for land use permits must be made on forms supplied by the Department. The owner or his representative must sign the application.
 - (b) The application must be accompanied by the following, when required:
 - (i) A site plan in accord with Section 18.42.110;
 - (ii) A report showing the names and addresses of the owners and the names and addresses of applicable surrounding landowners as they appear on the tax rolls of the county treasurer. If the owner of the property under consideration owns another parcel or parcels of property, which lie adjacent to the property under consideration, notice will be given to owners of such property located within a prescribed distance of the boundaries of such property;
 - (iii) An application fee in accord with the adopted fee schedules; and
 - (iv) An environmental checklist.
- (3) Notification. Upon completing his review and in conjunction with applicable environmental reviews, the Director, when applicable, will refer the application to

appropriate agencies and notify the public in accord with the requirements of 18.42.020(2)(b)(ii); 4.08.310, and 4.12.090. (Ord. 5180 Sec. 1, 2007)

18.42.030: Action: The Planning Director will make appropriate findings and either approve, conditionally approve, or deny the application. Should an application be approved or conditionally approved, the permit will not become effective until after the time for appealing the permit has expired. (Ord. 5180 Sec. 1, 2007)

18.42.040: Conditions of Approval:

(1) Permits may be made subject to any condition, which the Planning Director finds necessary to protect the public health, safety and welfare or otherwise bring a proposed development into compliance with the purpose and intent of this Title. Such conditions may include, but are not limited to, special setbacks and buffers, including landscaping, fences and walls; lighting; surfacing of parking and driveways; the installation of drainage; the construction of service roads and alleys; the regulation of the time and type of various activities, points of vehicular ingress or egress, noise, vibration, odors and similar conditions, signs, and obstructions to visibility; and such other conditions as will make possible the development of the City in an orderly and efficient manner in conformity with the purpose and intent of this Title.

(2) The Planning Director may impose any condition he finds warranted in accord with the State Environmental Policy Act, RCW 43.21C. These conditions may be as the result of or in lieu of an environmental impact statement.

(3) Applicable sections of Chapter 13.12 relating to traffic obstructions and KMC Section 5.56.070 relating to street and right-of-way improvements apply. (Ord. 5180 Sec. 1, 2007)

18.42.050: Compliance with Permits: All premises must be developed and maintained in accord with an approved land use permit. The failure of the property to be so developed or maintained is grounds for the revocation of that permit. The Planning Director may inspect any premises at reasonable times to determine that it is being so developed and maintained. No certificate of occupancy or business license will be issued until all conditions of the permit have been complied with or assurances given that the conditions will be met. (Ord. 5180 Sec. 1, 2007)

18.42.060: Term of Permits:

(1) Expiration of permits and applications under this Chapter shall be determined as provided under KMC 4.12.075.

(2) The Planning Director may review any permit from time-to-time and may, upon his own motion or at the request of an owner or occupant of the premises covered by such a permit or by an adjacent or affected property owner, review the permit and amend its conditions, if conditions so warrant. Such amendment may not require the construction, reconstruction, removal or relocation of any building, however, unless the Planning Director finds that there is a hazard to the public's safety. Changes and requests for changes may not be made more frequently than once every six months. (Ord. 5471 Sec. 1, 2012; Ord. 5180 Sec. 1, 2007)

18.42.080: Additional Animals: The Planning Director may permit additional animals in any “R” district for non-commercial purposes under this section.

- (1) Notice will be given to all abutting property owners who will have 15 days to comment on the application.
- (2) The Planning Director will take action after the comment period and may, depending on public comment, increase the allowable number of animals if he finds:
 - (a) All cages, pens, runs, and similar structures can be constructed in accord with Chapter 18.27 (building permits may be required);
 - (b) Odors and smells can be contained in accord with Section 9.48.010;
 - (c) The facilities must be in accord with accepted standards of animal care; and
 - (d) The facilities must not allow animals to roam or fly to adjacent properties.
- (3) The Planning Director will impose such conditions upon the permit as may be necessary and will require that all cages, pens, runs, and other structures be maintained in a safe and sanitary condition, free from odors and smells and of such structural soundness that animals will, under normal circumstances, be unable to escape. A yard enclosed by a fence at least six feet in height and resistant to tunneling will normally be considered proper enclosure for dogs. The facilities must be maintained and constructed so as to protect animals from injury and illness. Facilities must regularly be cleaned, food supplied, bedding changed, and waste disposed of so as to maintain the premises in a clean and sanitary condition, free from insects, rodents, weather and odors at all times. Structures must be constructed so as to protect all animals from the elements. There must be facilities for appropriate exercise, movement, and sleeping. There must be adequate drainage to prevent the ponding of water and mud. Manure, excreta, and other animal waste and carcasses must be disposed of in a sanitary fashion. Conditions may be imposed which will result in the construction of easily maintainable, sanitary facilities. (Ord. 5180 Sec. 1, 2007)

18.42.090: Home Occupations: Under this Section the Planning Director may approve a home occupation for any residential unit, regardless of zoning designation.

- (1) The Planning Director or Designee may approve a home occupation if he finds that it complies with the following criteria:
 - (a) There must be no structural alterations to accommodate the occupation;
 - (b) Unless otherwise required by law, the entrance to the home occupation must be from within the residence;
 - (c) The use must not occupy more than 25% of the floor area of the residential structure; and any accessory building used in conjunction with the home occupation;
 - (d) The occupation may occupy an accessory building or structure, providing that off-street parking requirements are maintained;
 - (e) During the first 18 months of operation, a home occupation may engage one temporary or irregular employee or business assistance person in addition to members of the immediate family;
 - (f) There must be no exterior advertising, except a residential use sign;
 - (g) There must be no window displays nor commodities displayed outside the building;
 - (h) There shall be no retail sales on the premises;

- (i) No materials or equipment which may be detrimental to adjoining residences because of vibration, noise, odor, or interference with radio or television reception will be permitted;
- (j) All deliveries or shipments to or from the residence should be done by the operator of the occupation except for normal delivery service using delivery vehicles up to 26,000 pounds GVW;
- (k) No more than two vehicles, related to the occupation, not exceeding 10,000 pounds GVW, shall be kept on the premises, providing that appropriate off-street parking requirements are maintained;
- (l) There must be no exterior storage of materials or equipment other than the occupation-related vehicle;
- (m) There shall be no more than four (4) customer/client visits per day, by appointment only, at the residence, and no more than one (1) on the premises at any given time between the hours of 8:00 a.m. and 7:00 p.m. For purposes of this section, one customer/client visit shall be considered to include not more than four (4) persons arriving in a single vehicle; and
- (n) A home occupation shall not include automobile repair, body shop work, dog kennels, dog boarding, nor construction-related heavy equipment or vehicles.

(2) Within "R" Districts, if the Planning Director finds that the applicant cannot substantially meet each and every one of the above-described criteria, the application will be denied.

(3) No home occupation permit is final until the applicant has obtained a business license. (Ord. 5180 Sec. 1, 2007)

18.42.100: Conditional Uses: Conditional uses are approved in accord with this section as follows:

- (1) Notification will be given to property owners within 300 feet who will have 15 days to express comments.
- (2) The Planning Director will normally take action within 20 working days after the comment period.
- (3) Depending on public comment, a conditional use permit may be approved if:
 - (a) The use will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity;
 - (b) Public ways serving the site are properly designed, improved and of sufficient condition to carry the type and quantity of traffic which can or will be generated by the proposed project; and
 - (c) The site is adequate in size and shape to accommodate the use in harmony with its Surroundings.
- (4) Conditions. The permit may be conditioned in any way necessary to protect the health, safety and general welfare of the public and nearby property. (Ord. 5180 Sec. 1, 2007)

18.42.105: Temporary Homeless Encampment Permit: Temporary homeless encampment permits are approved in accord with this section as follows:

- (1) Notification will be given to property owners within 300 feet who will have 15 days to express comments.

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(2) The Planning Director will normally take action within 20 working days after the comment period.

(3) Depending on public comment, a temporary homeless encampment permit may be approved if it meets the requirements of KMC 18.12.255.

(4) Conditions. The permit may be conditioned in any way necessary to protect the health, safety, and general welfare of the public and nearby property.

(5) Appeal. There is no administrative appeal of the Planning Director's decision for a temporary homeless encampment permit. The action of the City in granting or denying an application under this chapter may be reviewed pursuant to the standards set forth in RCW 36.70C.130 in the Benton County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision of the City. For more information on the judicial process for land use decisions see Chapter 36.70C RCW.

18.42.110: Site Plans:

(1) No building permit will be issued nor may any use or change in use be made of land without a site plan. This does not apply to open or temporary land uses which do not exceed 10 days in duration or single-family and duplex residences and their accessory structures in R districts.

(2) Each site plan or amendment submitted for approval must be accompanied by a scale drawing, showing lot lines and dimensions, the location of existing structures intended to remain, proposed buildings or improvements, the heights of all structures, parking lot design and location including access and drainage, street right-of-way lines, setbacks, exterior lighting, garbage facilities, signs, landscaping, fences, and any other information necessary to ensure compliance with the provisions of this Title. If known, the plan must indicate the proposed or probable use of the development and a brief statement of the type of construction contemplated.

(3) The plan will be conditioned or amended so that the development will conform in all respects to this Title and other applicable laws and ordinances.

(4) The plan will be such as to best harmonize with the project's surroundings and not be detrimental to the use and development of adjoining properties.

(5) Any permit or amendment thereto which authorizes the division of property in lieu of a plat or short plat must be recorded with the Benton County Auditor. The plans and the record of survey filed therewith have the same legal effect as a plat.

(6) Site Plans must be in conformance with the applicable design standards in Chapter 18.75 and Chapter 18.78. (Ord. 5471 Sec. 2, 2012; Ord. 5355 Sec. 1, 2011; Ord. 5180 Sec. 1, 2007)

18.42.120: Minor Variations: The Planning Director may approve, without notice, a reduction in lot area, setback and width and an increase in lot coverage and building height, none of which exceeds 10 percent of the standards of the zone in which the use is located. Minor variations may not allow an increase in the number of dwelling units on a parcel nor permit a reduction in lot area of any lot created after January 1, 1977. If the Planning Director denies a minor variation, the applicant may apply for a variance to the Hearing Examiner (18.54.070). (Ord. 5322 Sec. 51, 2010; Ord. 5180 Sec. 1, 2007)

18.42.140: Mixed Use Site Plan:

(1) Single Mixed-Use Project (Vertical and Horizontal). A mixed-use project that is either vertical or horizontal and contained within a single building and single parcel shall be reviewed through the Site Plan process.

(2) Multiple Building/Multiple Site Mixed-Use Development Projects. If the project is horizontally-integrated on more than one parcel and/or in more than one building, a Mixed-Use Master Site Plan is required to ensure that the buildings are functionally and physically integrated.

(a) Mixed-Use Master Site Plan Requirements. Initial development of a multiple building mixed use site or phased development of a mixed use site shall require submittal and approval of a Mixed Use Master Plan. The following requirements shall apply:

(i) Required components. Mixed-Use Master Site Plans shall contain the following:

- A. All submittals according to the Site Plan requirements.
- B. Mapping and written description of all proposed uses and use types.
- C. A maintenance agreement between the City and the property owner's association.
- D. If applicable, description of proposed future phasing.
- E. Written description of proposal's consistency with transportation and other service requirements.
- F. Compliance with the City's land use plan and policies.
- G. A parking plan with written descriptions and graphics describing how residential and non-residential uses can provide sufficient and coordinated parking to avoid impacts to adjacent off-site residential.

(ii) Approval Criteria. Approval or approval with conditions shall be granted upon findings that:

- A. The Master Site Plan and associated conditions of approval ensure future development will meet all applicable criteria of this chapter;
- B. If phasing is proposed, the phase boundary must be outlined in the Master Site Plan. The total floor area proposed in each phase and the percentage of residential and commercial mix in each phase must also be indicated;
- C. There is or will be sufficient capacity within the transportation system and public sewer, water, police, fire, and stormwater services to adequately serve all portions of the site at the time of development; and
- D. The Master Plan is in compliance with Comprehensive Plan policies and any other relevant Sub-Area plan(s).

(iii) Modifications. Proposed modifications to previously approved Mixed-Use Master Plans shall require review and approval by the City.

(iv) Final Plan Approval. No single phase may contain more than 50% of the total square footage for any one major use type (commercial, office or residential) envisioned by the Master Site Plan unless 25% of

the total square footage of all major use types envisioned by the Master Plan are included in the proposed phase or were included in previous phases. This requirement may be waived by the Director of Community Planning, if the applicant provides a security or other form of binding assurance that the remaining major use types contemplated in the Master Plan will be built.

(3) All mixed-use plans shall run with the land unless modified as approved by the City. Mixed used developments containing residential units are exempt from either dedicating land for park purposes or paying a park fee in lieu of dedication. All other applicable regulations in the Kennewick Municipal Code shall apply. (Ord. 5697 Sec. 1, 2017; Ord. 5262 Sec. 1, 2009)

RCW 9A.36.041

Assault in the fourth degree.

(1) A person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, he or she assaults another.

(2) Assault in the fourth degree is a gross misdemeanor, except as provided in subsection (3) of this section.

(3) Assault in the fourth degree, where domestic violence was pleaded and proven after July 23, 2017, is a class C felony if the person has two or more prior adult convictions within ten years for any of the following offenses where domestic violence as defined in RCW [9.94A.030](#) was pleaded and proven after July 23, 2017:

(a) Repetitive domestic violence offense as defined in RCW [9.94A.030](#);

(b) Crime of harassment as defined by RCW [9A.46.060](#);

(c) Assault in the third degree;

(d) Assault in the second degree;

(e) Assault in the first degree; or

(f) An out-of-state comparable offense.

(4) For purposes of subsection (3) of this section, family or household members means spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, and persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship.

[[2017 c 272 § 1](#); [1987 c 188 § 2](#); [1986 c 257 § 7](#).]

RCW 10.99.020

Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means a general authority Washington law enforcement agency as defined in RCW [10.93.020](#).

(2) "Association" means the Washington association of sheriffs and police chiefs.

(3) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(4) "Dating relationship" has the same meaning as in RCW [26.50.010](#).

(5) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

(a) Assault in the first degree (RCW [9A.36.011](#));

(b) Assault in the second degree (RCW [9A.36.021](#));

(c) Assault in the third degree (RCW [9A.36.031](#));

(d) Assault in the fourth degree (RCW [9A.36.041](#));

(e) Drive-by shooting (RCW [9A.36.045](#));

(f) Reckless endangerment (RCW [9A.36.050](#));

(g) Coercion (RCW [9A.36.070](#));

(h) Burglary in the first degree (RCW [9A.52.020](#));

(i) Burglary in the second degree (RCW [9A.52.030](#));

(j) Criminal trespass in the first degree (RCW [9A.52.070](#));

(k) Criminal trespass in the second degree (RCW [9A.52.080](#));

- (l) Malicious mischief in the first degree (RCW [9A.48.070](#));
- (m) Malicious mischief in the second degree (RCW [9A.48.080](#));
- (n) Malicious mischief in the third degree (RCW [9A.48.090](#));
- (o) Kidnapping in the first degree (RCW [9A.40.020](#));
- (p) Kidnapping in the second degree (RCW [9A.40.030](#));
- (q) Unlawful imprisonment (RCW [9A.40.040](#));
- (r) Violation of the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW [10.99.040](#), [10.99.050](#), [26.09.300](#), [26.10.220](#), [26.26.138](#), [26.44.063](#), [26.44.150](#), [26.50.060](#), [26.50.070](#), [26.50.130](#), [26.52.070](#), or [74.34.145](#));
- (s) Rape in the first degree (RCW [9A.44.040](#));
- (t) Rape in the second degree (RCW [9A.44.050](#));
- (u) Residential burglary (RCW [9A.52.025](#));
- (v) Stalking (RCW [9A.46.110](#)); and
- (w) Interference with the reporting of domestic violence (RCW [9A.36.150](#)).
- (6) "Employee" means any person currently employed with an agency.
- (7) "Sworn employee" means a general authority Washington peace officer as defined in RCW [10.93.020](#), any person appointed under RCW [35.21.333](#), and any person appointed or elected to carry out the duties of the sheriff under chapter [36.28](#) RCW.
- (8) "Victim" means a family or household member who has been subjected to domestic violence.

[[2004 c 18 § 2](#); [2000 c 119 § 5](#); [1997 c 338 § 53](#); [1996 c 248 § 5](#); [1995 c 246 § 21](#); [1994 c 121 § 4](#); [1991 c 301 § 3](#); [1986 c 257 § 8](#); [1984 c 263 § 20](#); [1979 ex.s. c 105 § 2](#).]

REGULATION OF CHURCH SPONSORED TEMPORARY HOMELESS ENCAMPMENTS



Proposed
Amendments
to Kennewick
Municipal
Code Title 18

CITY COUNCIL
WORKSHOP
10-10-17

STATUTORY MANDATE

i Revised Code of Washington (RCW) 35.21.915

“A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.”

i City prohibited from enacting ordinance regarding temporary homeless encampments that:

§ Imposes unnecessary and/or burdensome conditions;

§ Requires a religious organization to obtain insurance or indemnify the City from liability; or

§ Imposes permit fees in excess of actual costs.

PROPOSED CHANGES

- **KMC 18.42:** Addition of a “Temporary Homeless Encampment Permit”. New section 18.42.105.
- **KMC 18.12.010 A.1 Residential Use Table:** Addition of temporary homeless encampments as a permitted use in all zoning districts subject to approval of a temporary homeless encampment permit.
- **KMC 18.12:** Proposed section 18.12.255 details requirements for temporary homeless encampments and specifies that permits will be approved in accordance with KMC 18.42.105.
- **KMC 18.09:** Proposed sections 18.09.1255, 18.09.1735, 18.09.2025, and 18.09.2065 define the terms “managing agency”, “religious organization”, “sponsor”, and “temporary homeless encampment”.

PERMIT

- i New section proposed as 18.42.105 lays out the procedures for the application and decision processes relating to temporary homeless encampment permits.
- i Notification and comment procedures, decision timeline, and conditions clause identical to that of KMC 18.42.100 regarding conditional use permits.
- i Fee for temporary homeless encampment permit is \$500.00 to ensure compliance with RCW 35.21.915.
- i Section references that requirements for approval are listed in KMC 18.12.255.
- i Appeal must be filed in Benton County Superior Court within 21 days of the land use decision pursuant to RCW 36.70C.040.

REQUIREMENTS

- i Proposed section 18.12.255 lists the requirements for temporary homeless encampments.
 - § Must include a religious organization as a sponsor or managing agency.
 - § Proposed encampment site must be on property owned or controlled by a religious organization.
 - § Applicant must agree to allow City to abate use if it continues after expiration of the permit, and to reimburse costs.
 - § Must meet setback requirements for zoning classification and be a minimum of 20 feet from the property line of abutting residential properties.
 - § Sight-obscuring fencing may be required.

REQUIREMENTS CONTINUED...

- § Exterior lighting must comply with KMC 18.39.030.
- § Maximum number of residents will be determined by the Director but may not exceed 100.
- § Parking requirements will be determined by the Director.
- § Must be located within ½ mile of transit and applicants shall submit a transportation plan that includes a provision for transit services.
- § No children are allowed to stay at the encampment and if one attempts to do so, the managing agency must immediately contact Child Protective Services.
- § No animals except service animals.
- § Applicant shall submit and enforce code of conduct which includes quiet hours and excludes (at minimum): drugs and alcohol, weapons, violence, open flames, and loitering in the surrounding neighborhood.

REQUIREMENTS CONTINUED...

- § Managing agency must obtain ID from potential residents and obtain warrant and sex offender checks from KPD.
- § Managing agency must notify KPD immediately if someone is rejected or ejected from the encampment due to a match on a sex offender check or an active warrant or if they believe the person is a potential threat to the community.
- § Managing agency must ensure compliance with State and City codes regarding health and safety and must permit daily inspections to check compliance.
- § Encampments may be approved for a period not to exceed six months.
- § A three-month separation is required between encampments at the same location.
- § Simultaneous encampments may not be located within 1,000 feet of each other.

QUESTIONS?



City Council Meeting Schedule November 2017

November 7, 2017
Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

November 14, 2017
Tuesday, 6:30 p.m.

WORKSHOP MEETING

1. Mid-Biennium Review
2. 2018 Property Tax Levy
3. Vista Field Master Plan

November 21, 2017
Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

November 28, 2017
Tuesday, 6:30 p.m.

WORKSHOP MEETING

1. Park Impact Fees
2. Diversity Commission
3. Small Cell Facilities Code Amendments

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

Please be advised that all Kennewick City Council Meetings are Audio Taped

November 2017
Updated 10/3/17