



City of Kenmore - 18120 68th Avenue NE - Kenmore, WA 98028  
Phone: 425-398-8900 - E-mail: [cityhall@kenmorewa.gov](mailto:cityhall@kenmorewa.gov)

## City Council Regular Meeting

**ON-SITE**

**MONDAY, MAY 22, 2023 - 7:00 PM**

**In addition, we try to provide access to the meeting virtually:**

**ZOOM LINK: <https://kenmorewa-gov.zoom.us/j/82454823617>**

Or One tap Mobile: US: +12532158782,,82454823617#

Or Telephone Dial US: +1 253 215 8782

Callers please dial \*9 to raise and lower hand

Webinar ID: 824 5482 3617

**If you are having difficulty accessing the meeting virtually, please contact [mkang@kenmorewa.gov](mailto:mkang@kenmorewa.gov).**

**Technical Difficulties** - If the virtual component of the meeting disconnects, and we cannot resolve technical difficulties to reconnect the virtual component, the in-person meeting will continue at City Hall if there is a quorum of the body to conduct business.

### **I. CALL REGULAR MEETING TO ORDER - 7:00 PM**

### **II. ROLL CALL**

### **III. FLAG SALUTE**

### **IV. AGENDA APPROVAL**

### **V. PROCLAMATIONS**

- A. Pride Month, to be accepted by Jeanne Galloway

**PROCLAIMED**

[Proclamation - Pride Month](#)

- B. National Gun Violence Awareness Day

**PROCLAIMED**

[Proclamation - National Gun Violence Awareness Day](#)

### **VI. PRESENTATION**

- A. Introduce New Staff

**INTRODUCED**

- GIS Analyst Amanda Larson, introduced by Environmental Services Director Richard Sawyer
- Climate Action Program Manager Nina Rasmussen, introduced by Environmental Services Director Richard Sawyer
- Housing and Human Services Manager Tambi Cork, introduced by Deputy City Manager Stephanie Lucash

**VII. WHERE'S THE FUN?****VIII. PUBLIC COMMENTS**

- A. We welcome our community members to the Council's meeting. In this forum, the Council does not engage or dialogue with the public; the primary role of the Council is to listen. We will hear from our on-site guests first, followed by our virtual guests. If you're online, please use the "raise hand" feature now if you wish to speak. All guests must address comments to the Mayor and City Council. The Clerk will acknowledge your request and call your name when it is your turn. Your time will start when we confirm that we can hear you. Please state your name and city of residence for the record and keep your comments to the allotted time. We will not split your time with others or reset your time except by express approval of the Presiding Officer. Screen-sharing is not allowed; you can submit materials to the Council or Clerk in advance. Please do not comment about pending development projects on which the Council will make future decisions as those are quasi-judicial matters, and Councilmembers must limit their communications about such matters. This meeting is being recorded. Thank you for taking the time to express your comments.

**IX. CONSENT AGENDA****APPROVED BY UNANIMOUS CONSENT**

- A. Approve the City Council Special Meeting Minutes from May 1, 2023.  
[City Council Special Meeting Minutes from May 1, 2023](#)
- B. Approve the City Council Special and Regular Meeting of May 8, 2023.  
[City Council Special and Regular Meeting Minutes from May 8, 2023](#)
- C. Approve Total Check #s 52011 through 52112 totaling \$488,749.80 and Total Payroll/Taxes/Flexible Spending/Retirement & Health Savings Account Electronic Deposits Dated 05/05/2023 in the amount totaling \$213,374.16 and ACH Payment to KBA Inc. in the amount of \$40,696.05, and Payroll Check #s 10214 and 10215 dated 05/05/2023 in the amount of \$2,769.63. (added 5/16)  
[Voucher Certificate and Approval 04/29/23 - 05/12/23](#)
- D. Adopt Ordinance No. 23-0578 updating Title 12 of the Kenmore Municipal Code (KMC).  
[Agenda Bill - KMC Title 12 Updates Ordinance](#)  
[Attachment A - Ordinance 23-0578](#)
- E. Authorize the City Manager to purchase a 2023 Ford Transit (EV model) for Environmental Services Division staff in an amount of approximately \$58,612.64 plus fees.  
[Agenda Bill - 2023 Ford Transit \(EV Model\) Purchase](#)



- F. Authorize the City Manager to execute Contract No. 23-C2898 for the aquatic center feasibility study.

[Agenda Bill - Aquatic Center Feasibility Study](#)

[Attachment 1 - Contract No. 23-C2898](#)

## **X. BUSINESS AGENDA**

- A. Downtown Interactive Art Installation, presented by Public Works Operations Director Jennifer Gordon and Arts of Kenmore Director Sara Solum Hayashi, *for approval*

**MOTION PASSED**

[Agenda Bill - Downtown Interactive Art Installation](#)

[Proposal - Downtown Interactive Urban Art Installation](#)

- B. Proposed Changes to the City's Business Registration Program, presented by Deputy City Manager Stephanie Lucash, ARPA Management Analyst Janet Quinn, and Administrative Specialist Teresa McAllister, *for discussion and direction*

**DISCUSSED AND DIRECTION GIVEN**

[Agenda Bill - Business Registration Program](#)

[Attachment 1 - Business Registration Program Memo](#)

[Presentation - Kenmore Business Registration Program](#)

- C. Personnel Policies Manual Amendments, presented by City Manager Rob Karlinsey, *for Adoption*

**ADOPTED**

[Agenda Bill - Personnel Policies Manual](#)

[Attachment 1 - Resolution No. 23-398 Adopting the Personnel Policies Manual as Exhibit A](#)

[Attachment 2 - May 8, 2023 Agenda Bill and Attachments](#)

- D. State Legislative Session Recap, presented by Gordon Thomas Honeywell Government Relations State Lobbyist Shelly Helder

**PRESENTED**

[Presentation - 2023 Legislative Session](#)

[End-of-Session Report](#)

## **XI. STAFF REPORTS**

## **XII. COUNCILMEMBER REPORTS & COMMENTS**

## **XIII. ADJOURNMENT**

## **XIV. UPCOMING MEETINGS**

- A. City Council Regular Meeting of June 12, 2023 at 7:00 PM

City Council Regular Meeting of June 19, 2023 at 7:00 PM -

**CANCELED**

City Council Special and Regular Meeting of June 26, 2023 at 6:30 PM

City Council Retreat of June 30, 2023 - July 1, 2023

**XV. NOTICE OF POTENTIAL QUORUMS**

[Click here for information about Potential Quorums of the City Council.](#) Now found on the City website under City Council Meetings.

## City of Kenmore, Washington Proclamation

**WHEREAS**, the City and the Council of Kenmore acknowledge and celebrate our diverse population, understanding that the unique tapestry woven by our varied cultures, traditions, beliefs, and experiences is one of our most significant strengths. This diversity and intersectionality of our people enrich our community, fostering an environment of understanding, growth, and unity; and

**WHEREAS**, we assert and uphold the principle that every individual, regardless of their identity or background, deserves to live in an atmosphere of dignity, respect, and justice. We categorically condemn and will not tolerate any form of discrimination, violence, or hate, holding these acts as affronts to the values we cherish as a community; and

**WHEREAS**, the City of Kenmore honors the invaluable contributions made by the LGBTQ+ community across various fields such as arts, literature, business, labor, and public service. Their creativity, innovation, and dedication enhance the vibrancy and dynamism of our city; and

**WHEREAS**, we acknowledge and appreciate the significant strides made by the LGBTQ+ community in advocating for their rights and freedoms. The legalization of marriage equality, the affirmation of identity, and the freedom to love without restriction represent landmark victories not just for the LGBTQ+ community, but for the broader cause of human rights; and

**WHEREAS**, we recognize with deep concern that the LGBTQ+ community continues to face challenges such as harassment, intimidation, discrimination, and violence. We stand in solidarity with them and vow to fight these injustices; and

**WHEREAS**, the City of Kenmore reaffirms its commitment to creating and maintaining an environment that is safe, inclusive, and welcoming for all individuals, regardless of their sexual orientation, gender identity, or any other characteristic. We pledge to continuously strive towards enhancing the inclusivity and acceptance within our city; and

**WHEREAS**, Pride Month is a celebration of the progress, achievements, and resilience of the LGBTQ+ community. This is a time to highlight and appreciate the numerous contributions made by this community, and to unequivocally assert that LGBTQ+ rights are human rights.

**NOW THEREFORE**, I, Nigel Herbig, Mayor of the City of Kenmore, acting on behalf of the City Council, do hereby proclaim June 2023 as **Pride Month** throughout the City of Kenmore. We invite all members of our community to participate in this celebration, fostering a culture of acceptance, love, and pride across the City of Kenmore.

**IN WITNESS WHEREOF**, signed this 22<sup>nd</sup> day of May 2023.



Signed: \_\_\_\_\_

Nigel Herbig, Mayor

Attested: \_\_\_\_\_

Michelle Kang, Acting City Clerk

## City of Kenmore, Washington Proclamation

**WHEREAS**, every day, more than 300 people are directly impacted by gun violence in the United States; and

**WHEREAS**, no one is immune from the tragedies of gun violence in America; and

**WHEREAS**, protecting public safety in the community is one of the City of Kenmore's highest responsibilities; and

**WHEREAS**, support for Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from people with dangerous histories; and

**WHEREAS**, National Gun Violence Awareness Day is a day to raise awareness about gun violence and honor the lives of gun violence and victims; and

**WHEREAS**, gun violence prevention advocates and organizations nationwide have taken up the color orange as the color of gun awareness; and

**WHEREAS**, we renew our commitment to reduce gun violence, pledge to do all we can to keep firearms out of the wrong hands, and courage responsible gun ownership to help keep our children safe.

**NOW THEREFORE**, I, Nigel Herbig, Mayor of the City of Kenmore, on behalf of the City Council, do hereby proclaim **June 2, 2023** to be **National Gun Violence Awareness Day** throughout the City of Kenmore. We encourage our community to wear orange on that day.

**IN WITNESS WHEREOF**, signed this 22<sup>nd</sup> day of May 2023.



Signed: \_\_\_\_\_  
Nigel Herbig, Mayor

Attested: \_\_\_\_\_  
Michelle Kang, Acting City Clerk

**City of Kenmore  
City Council Meeting  
Special Meeting Minutes  
Monday, May 1, 2023**

These minutes are created to capture Council action. This is not a verbatim transcript.  
Meeting video and audio is available on the City YouTube channel.

**PRESENT:**

Councilmembers: Mayor Nigel Herbig  
Deputy Mayor Melanie O’Cain  
Councilmember David Baker  
Councilmember Joe Marshall  
Councilmember Angela Kugler  
Councilmember Debra Srebnik  
Councilmember Corina Pfeil

Staff: City Manager Rob Karlinsey  
Deputy City Manager Stephanie Lucash  
City Attorney Dawn Reitan  
Acting City Clerk Michelle Kang  
Public Works Operations Director Jennifer Gordon  
Facility & Fleet Maintenance Supervisor Aleks Firsov  
Event Specialist Nicole Suarez  
Interim Volunteer & Event Supervisor Maurita Colburn  
Farmers Market Lead (Day of Manager) Rebecca Lucero  
Environmental Services Director Richard Sawyer  
Engineering Director John Vicente

Speaking Guests: Tarelle Osborn, Osborn Consulting Principal Engineer

**CALL SPECIAL MEETING TO ORDER**

Mayor Herbig called the special meeting to order at 6:00 PM.

**PROCLAMATION**

Mayor Herbig proclaimed May 2023 as Building Safety Month in the City of Kenmore.  
[Proclamation - Building Safety Month](#)

**PRESENTATION**

New Staff Introductions

- Public Works Operations Director Jennifer Gordon introduced Facility & Fleet Maintenance Supervisor Aleks Firsov. Aleks Firsov said a few words to the Council.
- Event Specialist Nicole Suarez introduced Interim Volunteer & Event Supervisor Maurita Colburn. Maurita Colburn said a few words to the Council.
- Event Specialist Nicole Suarez introduced Farmers Market Lead (Day of Manager) Rebecca Lucero. Rebecca Lucero said a few words to the Council.

## **STUDY SESSION AGENDA**

- A. Fish Passable Culvert Replacement Prioritization for Future Surface Water Management Capital Improvement Program Projects, presented by Environmental Services Director Richard Sawyer and Osborn Consulting Principal Engineer Tarelle Osborn
- [Agenda Bill - Culvert Replacement Prioritization](#)  
[Attachment 1 - Draft Conceptual Design Sheets for 12 Proposed High Impact Culvert Replacement Projects](#)  
[Presentation - Culvert Replacement Prioritization](#)

Environmental Services Director Richard Sawyer presented to the City Council the history behind this prioritization project, beginning in 2021. Osborn Consulting Principal Engineer Tarelle Osborn presented to the City Council the Culvert Prioritization Tool (CPT) to help score which culverts to address first.

Councilmembers provided questions and comments.

- Would like a higher resolution map of the culverts with streets.
  - Staff informed Councilmembers that one of the GIS maps that will be available for viewing will include the culverts.
- So excited about this crucial first step. Hopefully we move towards long term solutions.

City Manager Rob Karlinsey suggested naming some of the culverts, rather than just having a number, which would get more community involvement and desire for these culvert improvements.

- B. Kenmore Municipal Code (KMC) Title 12 Updates, presented by Engineering Director John Vicente
- [Agenda Bill - KMC Title 12 Updates](#)  
[Attachment A - Title 12 Red Lined Changes](#)  
[Attachment B - Title 12 Changes, Clean Copy](#)  
[Attachment C - Summary of Title 12 Changes](#)  
[Presentation - KMC Title 12 Updates](#)

Engineering Director John Vicente returns for the third time to present to the City Council the proposed changes to KMC Title 12.

General changes made:

- Grammatical corrections/edits
- Consolidation of definitions
- Text moved to more logical locations for better flow
- Defined terms were italicized for consistency with the rest of the KMC
- Renaming of terms to be consistent with other documents

John Vicente discussed the following sections:

- Chapter 12.80 – Integrated Transportation Program
- Chapter 12.85 – State Route 522 Access Management Program
- Chapter 12.90 – Transportation Benefit District
- Chapter 12.95 – Street Vacations

Councilmembers provided questions and comments.

- What is the value of the street vacation appraisal used for?
  - We have to come up with a reasonable way to say how much the property is worth. This would be the standard appraisal process based off the adjacent property.
- Can we get some concrete examples of when the applicant is a resident, not the City, for street vacations?
  - Example: if there are ten feet between the sidewalk and the private property, the resident can ask the City to purchase that land.

KMC Title 12 Updates will return for Council approval through adoption of an ordinance on May 22, 2023. The parking removal ordinance discussed last study session is no longer needed.

### **STAFF REPORTS**

City Manager Rob Karlinsey thanked Engineering Director John Vicente for the effort that went into the Title 12 Updates. Additionally, because of the grant applications that John Vicente applied for, the City has \$9.75 million dollars for sidewalks.

City Manager Rob Karlinsey also read a text message from a resident thanking the City for the Hangar and the open space for kids and families this past weekend.

### **COUNCILMEMBER REPORTS & COMMENTS**

Regional Crisis Response (RCR) Principal Assembly is looking for an individual to represent the City at the Principal Assembly. Councilmembers discussed and voted. Councilmember Srebniak will be the primary representative. Councilmember Pfiel will be the alternate representative.

### **EXECUTIVE SESSION**



Pursuant to RCW 42.30.110(1)(i), the City Council entered an executive session to discuss pending or potential litigation. The Mayor announced that the executive session was slated to last 30 minutes. No action was taken.

**ADJOURNMENT**

Mayor Herbig adjourned the meeting at approximately 7:57 PM.

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Nigel Herbig, Mayor

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Michelle Kang, Acting City Clerk

**City of Kenmore  
City Council Meeting  
Special & Regular Meeting Minutes  
Monday, May 8, 2023**

These minutes are created to capture Council action. This is not a verbatim transcript.  
Meeting video and audio is available on the City YouTube channel.

**PRESENT:**

Councilmembers: Mayor Nigel Herbig  
Deputy Mayor Melanie O’Cain  
Councilmember David Baker  
Councilmember Joe Marshall  
Councilmember Angela Kugler – Joined at approximately 6:51 PM  
Councilmember Debra Srebnik  
Councilmember Corina Pfeil

Staff: City Manager Rob Karlinsey  
Deputy City Manager Stephanie Lucash  
City Attorney Dawn Reitan  
City Attorney Kathy Weber  
Acting City Clerk Michelle Kang  
Co-Clerk Brian Randall  
Community Development Director Debbie Bent  
Assistant to the City Manager Garrett Oppenheim  
Engineering Director John Vicente

Speaking Guests: Alexis Mercedes Rinck, KCRHA Director of Sub-Regional Planning  
and Equitable Engagement

Public Comments Speaking Guests:  
Carl Michelman, Kenmore Business Owner and Brier Resident  
Elizabeth Mooney, Kenmore Resident  
Victoria Grayland, Kenmore Resident  
Stacey Valenzuela, Kenmore Resident  
David Morton, Redmond Resident

Public Hearing Speaking Guest:  
Stacey Valenzuela, Kenmore Resident

**CALL SPECIAL MEETING TO ORDER**

Mayor Herbig called the special meeting to order at 6:30 PM.

**EXECUTIVE SESSION**

Pursuant to RCW 42.30.110(1)(i), the City Council entered an executive session to discuss pending litigation.

**POSSIBLE ACTION RELATING TO EXECUTIVE SESSION**

No action from the executive session.

**ADJOURN SPECIAL MEETING**

Mayor Herbig adjourned the special meeting at approximately 7:00 PM.

**CALL REGULAR MEETING TO ORDER**

Mayor Herbig called the regular meeting to order at 7:00 PM.

**FLAG SALUTE**

Mayor Herbig led the Council in the flag salute.

**AGENDA APPROVAL**

The agenda was approved as presented.

**PRESENTATION**

King County Regional Homelessness Authority (KCRHA): Organizational and Progress Updates, presented by Assistant to the City Manager Garrett Oppenheim and KCRHA Director of Sub-Regional Planning and Equitable Engagement Alexis Mercedes Rinck [Presentation - KCHRA Organizational and Progress Updates](#)

Mayor Herbig recused himself from this presentation.

Assistant to the City Manager introduced KCRHA Alexis Mercedes Rinck. Alexis Mercedes Rinck presented to the Council an update of KCRHA, including an organizational overview, the five-year plan, North King County Sub-Regional Implementation Plan, and North King County Agreement - Progress Update. Councilmembers provided questions and comments.

Alexis Mercedes Rinck is planning to return with an update from KCRHA in October 2023. The update will likely include a draft North King County Sub-Regional Implementation Plan and North King County Outcomes.

### **WHERE'S THE FUN?**

City Manager Rob Karlinsey showed the Council photos from the ʔaʔwadis (Tl' awh-ah-dees) Park Ribbon Cutting that took place on Saturday, May 6, 2023.

### **PUBLIC COMMENTS**

The City Council took comments from the public.

Timestamped link here:

<https://www.youtube.com/live/QXFtrmMqEDo?feature=share&t=3777>

### **CONSENT AGENDA**

A. Approve City Council Special and Regular Meeting Minutes from April 10, 2023.

[City Council Special and Regular Meeting Minutes from April 10, 2023](#)

B. Approve Total Check #s 51819 through 51925 totaling \$379,058.94 and Total Payroll/Taxes/Flexible Spending/Retirement & Health Savings Account Electronic Deposits Dated 04/07/2023 in the amount totaling \$221,377.59 and ACH Payment to US Bank Purchase Cards in the amount of \$4,466.30, and ACH Payment to Washington Federal Bank in the amount of \$1,793.89.

[Voucher Certification and Approval 04/01/23-04/14/23](#)

**MOTION:** Councilmember Pfeil moved to approve the consent agenda outlined above. Councilmember Kugler seconded the motion.

**VOTE:** Consent Agenda was approved by UNANIMOUS CONSENT

### **PUBLIC HEARING**

Proposed Resolution No. 23-397 for the 2024-2029 Six-Year Transportation Improvement Program, presented by Engineering Director John Vicente, *for Public Hearing*

[Agenda Bill - 2024-2029 Six-Year Transportation Improvement Program](#)

[Attachment A - Proposed Resolution No. 23-397 \(updated 5/4\)](#)

[Presentation - 2024-2029 Six-Year Transportation Improvement Program](#)

Engineering Director John Vicente presented to the Council prior to the public hearing. There was a review of the proposed Transportation Improvement Program (TIP), review of new projects, and summary of 2022 improvements.

There are ten projects from 2023-2028 program that have been carried over. There are seven projects that have been added to the proposed TIP and three projects that have been completed. Some new projects have been funded while others have not been funded yet. Staff received notice right before the Council Meeting started on some projects the City expected to be funded but which are actually unfunded.

Councilmembers provided questions and comments.

- Concern about having enough space on certain roads to add both a sidewalk and bike lane.
  - There is enough space, it would require the City reclaiming the right of way.
- Appreciation for Engineering Director John Vicente for all the grant writing and work he has done and continues to do for the City.
- Acknowledgement of how many miles of sidewalk the City has added and plans to add.
- Staff should create a timelapse to see the build-out of the sidewalks and bike facilities.
- What about adding lights along Burke-Gilman trail?
  - The trail falls under the purview of King County Parks. We can suggest or make a request for the lights.

Mayor Herbig opened the Public Hearing at approximately 8:41 PM.

The City Council received testimony from the public.

Timestamped link here:

<https://www.youtube.com/live/QXFtrmMqEDo?feature=share&t=7926>

Mayor Herbig closed the Public Hearing at approximately 8:43 PM.

### **BUSINESS AGENDA**

Proposed Resolution No. 23-397 for the 2024-2029 Six-Year Transportation Improvement Program, presented by Engineering Director John Vicente, *for Adoption*  
[Agenda Bill - 2024-2029 Six-Year Transportation Improvement Program](#)  
[Attachment A - Proposed Resolution No. 23-397 \(updated 5/4\)](#)

Councilmembers provided additional comments.

- Responding to some concerns from residents.

**MOTION:** Councilmember Pfeil moved to approve Resolution No. 23-397.

Councilmember Baker seconded the motion.

**VOTE:** 7 Yes; 0 No; 0 Abstain. **MOTION PASSES**

### **STUDY SESSION AGENDA**

Personnel Policies Manual Comprehensive Update, presented by City Manager Rob Karlinsey and Attorney Kathy Weber, *for Discussion and Direction*  
[Agenda Bill - Personnel Policies Manual Comprehensive Update](#)  
[Attachment 1 - Proposed Resolution No. 23-398 with Exhibit A \(Personnel Policies Manual\)](#)  
[Attachment 2 - Comparison of Several Compensation Policies Among Neighboring Cities](#)  
[Presentation - Personnel Policies Manual](#)

City Manager Rob Karlinsey introduced Inslee Best Attorney Kathy Weber who has been working on the comprehensive update of the personnel policies manual.

Although the personnel policies manual has had periodic updates, it has not seen a comprehensive review in recent years. The majority of the policies is administrative in nature and falls under the authority of the City Manager. However, some changes are regarding employee compensation and therefore, needs to be approved by the City Council.

After there were updates made, the personnel policies manual were brought to staff to review in three personnel policies workshops where staff could voluntarily come and ask questions or give input.

The legal updates include, but are not limited to, anti-harassment, disability accommodations, sick leave, parental leave, substance abuse, workplace violence, etc. The full list can be found in the attached presentation above.

The compensation-related updates include, but are not limited to calculation of overtime, compensatory time, call back, standby pay, dental plan premium, holiday overtime, severance agreements, etc. The full list can be found in the attached presentation above.

Councilmembers provided questions and comments.

- Many people carry mace for protection. Is there an exception for mace?
  - Yes, there is an exception for these types of scenarios.
- Does this manual cover the Council?
  - No.
- Clarification of the standby pay.
- In favor of retaining 5.6.4 the way the manual currently is.
- Is the take home vehicle a discretion?
  - Yes.
- There's a lot to consider about the take home vehicle, like liability.
- If the staff person got a business meeting allowance of \$400, they would be taxed on that?
  - Yes.

The Council provided directions on each compensation-related update based on whether there were any objections made as City Manager Rob Karlinsey went down the bullet points in the presentation.

The personnel policies manual will return to the Council for adoption consideration at the May 22, 2023 Regular Council Meeting.

**STAFF REPORTS**

City Manager Rob Karlinsey updated the Council that the Cadman asphalt plant facility conducted testing on emissions and the City became aware of the results late last week. The City wants to make sure the public is informed so we are working on putting the content together to keep the public updated.

City Manager Rob Karlinsey also updated the Council that the new Climate Action Plan manager began working today. Deputy City Manager Stephanie Lucash updated the Council that the Housing and Human Services Manager has been hired and begins on May 22<sup>nd</sup>.

**COUNCILMEMBER REPORTS & COMMENTS**

**ADJOURNMENT**

Mayor Herbig adjourned the meeting at approximately 10:00 PM.

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Nigel Herbig, Mayor

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Michelle Kang, Acting City Clerk





## Voucher Certification and Approval

City of Kenmore

DATE RANGE:

04/29/23 - 05/12/23

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

Total Check #s 52011 through 52112: \$488,749.80

Total Payroll/Taxes/Flex Spending/Retirement & Health Savings Acct Electronic Deposits Dated: 05/05/2023 \$213,374.16

ACH Payment - KBA Inc.: \$40,696.05

Payroll Checks #10214-10215 dated 05/05/23: \$2,769.63

Rob Karlinsey  
Rob Karlinsey (May 15, 2023 19:54 PDT)

May 15, 2023

City Manager / Date

Melinda Merrell  
Melinda Merrell (May 15, 2023 16:24 PDT)

May 15, 2023

Finance &amp; Administrative Services Director / Date

| Vendor Name                            | Check # | Date       | Description                                       | Amount    |
|--|---------|------------|---|-----------|
| KBA INC.                               | 1364    | 05/12/2023 | 18-C1846 2/26-4/1 W Sammamish Bridge Project      | 40,696.05 |
| AMERICAN GENERAL LIFE GPO/400S         | 52011   | 05/05/2023 | Life Insurance                                    | 220.33    |
| MISSION SQUARE / 109964                | 52012   | 05/05/2023 | City of Kenmore 401a                              | 23,180.59 |
| MISSION SQUARE 457 / 304745            | 52013   | 05/05/2023 | ICMA 457 Deferred Comp                            | 5,879.47  |
| ALPINE PRODUCTS INC.                   | 52014   | 05/12/2023 | Roadway/Drainage Materials                        | 420.10    |
| AM TEST, INC                           | 52015   | 05/12/2023 | Swamp Creek Water Sample Testing                  | 240.00    |
| AMERICALL                              | 52016   | 05/12/2023 | April After Hours Call Out Service                | 150.66    |
| APPLEONE EMPLOYMENT SERVICES           | 52017   | 05/12/2023 | Temporary Records Mgt. Svcs Week Ending 4/08      | 1,801.60  |
| APPLEONE EMPLOYMENT SERVICES           | 52018   | 05/12/2023 | Temporary Records Mgt. Svcs Week Ending 5/06      | 1,441.28  |
| APPLEONE EMPLOYMENT SERVICES           | 52019   | 05/12/2023 | Temporary Records Mgt. Svcs Week Ending 4/29      | 1,441.28  |
| APPLEONE EMPLOYMENT SERVICES           | 52020   | 05/12/2023 | Temporary Records Mgt. Svcs Week Ending 4/22      | 1,441.28  |
| AURORA RENTS                           | 52021   | 05/12/2023 | Lift Rental for City Hall Fire System Maintenance | 597.18    |
| AURORA RENTS                           | 52022   | 05/12/2023 | SW WO #9404 Excavator Rental for Damaged Pip      | 1,005.65  |
| BEST BEST & KRIEGER LLP ATTORNEYS AT L | 52023   | 05/12/2023 | Ziply Fiber March Legal Services                  | 4,433.50  |
| BRIEN, GAYLYNN                         | 52024   | 05/12/2023 | Sales Tax Data Conversion Svcs for Feb.           | 50.00     |
| BRIGHT SPARK EARLY LEARNING SERVICES   | 52025   | 05/12/2023 | 1st Quarter Early Learning Services Program       | 300.00    |

IX. C. Approve

Total Check #s 52011 through 52112 totaling \$488,749.80 a...

|                                    |       |            |   |           |
|------------------------------------|-------|------------|---|-----------|
| BUSINESS STREET, LLC               | 52026 | 05/12/2023 | 22-C2841Kenmore Vill. Analysis-Consulting Svcs  | 20,000.00 |
| CALPORTLAND COMPANY                | 52027 | 05/12/2023 | Materials for Damaged Pipe Replacement          | 192.20    |
| CALPORTLAND COMPANY                | 52028 | 05/12/2023 | Materials for Damaged Pipe Replacement          | 91.21     |
| CALPORTLAND COMPANY                | 52029 | 05/12/2023 | Materials for Damaged Pipe Replacement          | 131.12    |
| CITY WIDE FENCE COMPANY, INC       | 52030 | 05/12/2023 | Moorlands Park Fence Repair                     | 2,516.89  |
| CITY WIDE FENCE COMPANY, INC       | 52031 | 05/12/2023 | Rhododendron Park Split Rail Fence Installation | 4,978.72  |
| CODE PUBLISHING COMPANY            | 52032 | 05/12/2023 | Municipal Code Web Update                       | 3,105.38  |
| CONSOLIDATED PRESS                 | 52033 | 05/12/2023 | Spring Quarterly Newsletter Printing            | 3,678.20  |
| D.P. NICOLI, INC.                  | 52034 | 05/12/2023 | Shoring Rental for Surface Water Projects       | 622.13    |
| DAILY JOURNAL OF COMMERCE          | 52035 | 05/12/2023 | ARPA Mental/Behavioral Health Ads               | 244.80    |
| DAILY JOURNAL OF COMMERCE          | 52036 | 05/12/2023 | NE 175th Wayfinding Ads                         | 619.20    |
| DEPARTMENT OF COMMERCE             | 52037 | 05/12/2023 | PW Loan Payment 61st/190th Culvert              | 47,219.75 |
| ELECTRONIC BUSINESS MACHINES       | 52038 | 05/12/2023 | Apr. B/W & Color Copier Charges                 | 202.98    |
| ERGOLOGY LLC                       | 52039 | 05/12/2023 | Ergonomic Evaluation                            | 275.00    |
| GRANICUS LLC                       | 52040 | 05/12/2023 | Website Hosting Fee                             | 6,372.73  |
| H.D. FOWLER COMPANY                | 52041 | 05/12/2023 | Materials for Streets                           | 53.85     |
| HDR ENGINEERING, INC               | 52042 | 05/12/2023 | 16-C1625 2/26-4/1 Juanita Dr. Ped/Bike Project  | 6,489.06  |
| HEIDELBERG MATERIALS               | 52043 | 05/12/2023 | SW WO #9404 Pipe Repair Materials               | 393.16    |
| HESTON PHOTOGRAPHY                 | 52044 | 05/12/2023 | 69th Ave Ribbon Cutting Photography             | 195.00    |
| HOME DEPOT CREDIT SERVICES         | 52045 | 05/12/2023 | Parks/Public Works Shop/Volunteer Supplies      | 779.49    |
| HORIZON DISTRIBUTORS INC           | 52046 | 05/12/2023 | Irrigation Parts                                | 949.52    |
| INSLEE, BEST, DOEZIE & RYDER, P.S. | 52047 | 05/12/2023 | March Attorney Fees                             | 35,809.28 |
| INTERNATIONAL CODE COUNCIL, INC    | 52048 | 05/12/2023 | Training Books                                  | 77.62     |
| J. A. BRENNAN ASSOCIATES, PLLC     | 52049 | 05/12/2023 | Professional Svcs - Log Boom Irrigation Drawing | 1,338.75  |
| JAYMARC AV                         | 52050 | 05/12/2023 | Hangar AV - Annual Maint./Updates               | 1,183.58  |
| JET CITY PRINTING                  | 52051 | 05/12/2023 | Event Signs                                     | 780.61    |
| KENNETH RIDOUT                     | 52052 | 05/12/2023 | Deposit Refund ENG19-0207                       | 7,500.00  |
| KING COUNTY ANIMAL SVCS            | 52053 | 05/12/2023 | April Pet Licensing                             | 45.00     |
| KING COUNTY FINANCE                | 52054 | 05/12/2023 | Juanita School Flasher Installation             | 5,533.12  |
| KING COUNTY FINANCE                | 52055 | 05/12/2023 | Small Cities Indigency Screening                | 81.00     |
| KING COUNTY FINANCE                | 52056 | 05/12/2023 | April Solid Waste - Dump Fees                   | 212.44    |
| KLB CONSTRUCTION, INC.             | 52057 | 05/12/2023 | 20-C2143 Apr. 68th Ave Ped/Bike Proj.           | 950.80    |
| KPFF CONSULTING ENGINEERS          | 52058 | 05/12/2023 | 19-C2098 2/25-3/31 On-Call Engineering Svcs     | 57,249.18 |
| KPFF CONSULTING ENGINEERS          | 52059 | 05/12/2023 | 22-C2862 2/25-3/31 Engineering Svcs             | 15,962.24 |
| LAKESIDE INDUSTRIES                | 52060 | 05/12/2023 | 20-C2130 Simonds Road Overlay                   | 49,544.03 |

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|   |       |            |  |           |
|---|-------|------------|--|-----------|
| MILLER STEPHENS, MARY                     | 52061 | 05/12/2023 | April Public Defense Services @ SCORE            | 1,250.00  |
| MSPT XXII, LLC C/O FLYWAY RETAIL + LIVING | 52062 | 05/12/2023 | Town Square/Hangar Qtr 1 Garbage & Recycling     | 1,500.00  |
| NATIONAL BARRICADE CO., LLC               | 52063 | 05/12/2023 | Arrowboard Sign Rental                           | 237.04    |
| NICKOLAI MEDVEDITSKOV                     | 52064 | 05/12/2023 | Deposit Refund PRJ19-0084/ENG20-0254             | 10,786.60 |
| NORTHSHORE UTILITY DIST                   | 52065 | 05/12/2023 | April Fleet Fuel & Maintenance                   | 4,352.73  |
| OFFICE DEPOT                              | 52066 | 05/12/2023 | Misc. Office Supplies                            | 146.76    |
| OFFICE DEPOT                              | 52067 | 05/12/2023 | File Folders                                     | 7.76      |
| OLYMPIC ENVIRONMENTAL RESOURCES INC       | 52068 | 05/12/2023 | 2023 Recycling Program Implementation            | 5,374.21  |
| ORION ENVIRONMENTAL COMPLIANCE            | 52069 | 05/12/2023 | Pre-Demolition Asbestos Inspection               | 1,861.75  |
| OSBORN CONSULTING INC.                    | 52070 | 05/12/2023 | 19-C2012 March NE 190th Culvert Phase 2          | 4,837.03  |
| OSBORN CONSULTING INC.                    | 52071 | 05/12/2023 | 19-C2012 March Fish Barrier Prioritization       | 15,715.16 |
| OUTCOMES BY LEVY, LLC                     | 52072 | 05/12/2023 | Apr. Federal/State Grant Funding Consulting Svcs | 1,000.00  |
| PACE ENGINEERS, INC.                      | 52073 | 05/12/2023 | March On-Call Development Review Svcs            | 855.50    |
| PACIFIC TOPSOILS                          | 52074 | 05/12/2023 | 4/4-4/24 Dump fees & Materials Purchased         | 391.45    |
| PACWEST MACHINERY                         | 52075 | 05/12/2023 | Monthly Street Sweeper Rental                    | 7,156.50  |
| PARAMETRIX INC                            | 52076 | 05/12/2023 | 2/26-4/29 2024 Transportation Element Update     | 8,227.55  |
| PAUL LEE                                  | 52077 | 05/12/2023 | Deposit Refund PRJ18-0183/ENG20-0510             | 12,033.10 |
| PAUL LEE                                  | 52078 | 05/12/2023 | Deposit Refund PRJ18-0183/ENG20-0510             | 2,538.00  |
| PAWS                                      | 52079 | 05/12/2023 | March Animal Sheltering Services                 | 220.00    |
| PHOENIX UNITED INVESTMENT LLC             | 52080 | 05/12/2023 | Deposit Refund PRJ2006-003/ENG2011-0371          | 7,500.00  |
| PRECISION CONCRETE CUTTING                | 52081 | 05/12/2023 | Concrete Cutting for Trip Hazards                | 6,355.87  |
| PUGET SOUND ENERGY                        | 52082 | 05/12/2023 | April City Hall Electricity                      | 2,816.92  |
| QUALITY WATER FINANCIAL                   | 52083 | 05/12/2023 | May City Hall 1st Floor Filtered Water System    | 66.00     |
| QUALITY WATER FINANCIAL                   | 52084 | 05/12/2023 | May City Hall 2nd Floor Filtered Water System    | 50.59     |
| QUALITY WATER FINANCIAL                   | 52085 | 05/12/2023 | May Public Works Office Filtered Water           | 66.00     |
| QUALITY WATER FINANCIAL                   | 52086 | 05/12/2023 | Apr. City Hall 2nd Floor Filtered Water System   | 50.59     |
| QUALITY WATER FINANCIAL                   | 52087 | 05/12/2023 | Apr. City Hall 1st Floor Filtered Water System   | 66.00     |
| REID, JAMES FALCONER                      | 52088 | 05/12/2023 | Recruitment Services for HHS Manager             | 4,406.25  |
| REPUBLIC SERVICES                         | 52089 | 05/12/2023 | April City Hall/PW Shop Solid Waste Svcs         | 930.72    |
| REPUBLIC SERVICES                         | 52090 | 05/12/2023 | April Rhododendron Park Solid Waste Svcs         | 770.93    |
| SCHEMATA WORKSHOP INC.                    | 52091 | 05/12/2023 | 23-C2935 Mainstreet Development Consulting Svc   | 16,447.50 |
| SCORE                                     | 52092 | 05/12/2023 | Apr. Medical Transport Services                  | 300.00    |
| SEATTLE & KING COUNTY PUBLIC HEALTH       | 52093 | 05/12/2023 | 6/7-8/30 Farmers Market Permit                   | 833.00    |
| SEATTLE TIMES                             | 52094 | 05/12/2023 | April Legal Ads                                  | 986.93    |

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|                                    |                 |            |   |                      |
|------------------------------------|-----------------|------------|---|----------------------|
| SHRED IT, C/O STERICYCLE, INC.     | 52095           | 05/12/2023 | 4/28 Bulk Shredding Svcs                      | 727.96               |
| SHRED IT, C/O STERICYCLE, INC.     | 52096           | 05/12/2023 | 4/10 & 4/27 Shredding Svcs                    | 223.56               |
| STAPLES ADVANTAGE                  | 52097           | 05/12/2023 | City Hall & Hangar Maint. Supplies            | 161.76               |
| STAPLES ADVANTAGE                  | 52098           | 05/12/2023 | City Hall & Hangar Maint. Supplies            | 116.66               |
| STAPLES ADVANTAGE                  | 52099           | 05/12/2023 | Paper Towels                                  | 90.93                |
| STRATEGIES 360, INC.               | 52100           | 05/12/2023 | Apr. Federal Gov't. Relations & Lobbying      | 4,116.67             |
| TOTAL LANDSCAPE CORP               | 52101           | 05/12/2023 | NS Summit/Squires/Moorlands Landscaping       | 4,514.10             |
| TRIPLE POINT LLC                   | 52102           | 05/12/2023 | Deposit Refund PRJ2013-057/ENG2014-0461       | 35,360.40            |
| TRUGREEN                           | 52103           | 05/12/2023 | Moorlands Field Lime Application              | 355.62               |
| TRUGREEN                           | 52104           | 05/12/2023 | Moorlands Field Aeration                      | 1,625.08             |
| UTILITIES UNDERGROUND LOCATION CTR | 52105           | 05/12/2023 | April Utility Locates                         | 198.66               |
| WA STATE DEPT OF TRANSPORTATION    | 52106           | 05/12/2023 | Mar. 68th/175th & 181st Traffic Signal Maint. | 403.12               |
| WA STATE DEPT OF TRANSPORTATION    | 52107           | 05/12/2023 | Red Light Camera Installation                 | 268.45               |
| WA STATE DEPT OF TRANSPORTATION    | 52108           | 05/12/2023 | W. Samm. Bridge TCP Review 68th/522           | 247.83               |
| WESTLAKE HARDWARE WA-153           | 52109           | 05/12/2023 | PW Supplies & Equipment                       | 325.68               |
| WILLIAMS, KASTNER & GIBBS PLLC     | 52110           | 05/12/2023 | Public Records Request Legal Svcs             | 1,065.00             |
| ZIPLY FIBER                        | 52111           | 05/12/2023 | 4/28-5/27 City Hall Phones                    | 665.28               |
| ZIPLY FIBER                        | 52112           | 05/12/2023 | 4/19-5/18 PW Office Internet                  | 163.64               |
| DRS 457                            | DFT0001573      | 05/05/2023 | DRS 457 Deferred Comp                         | 655.00               |
| AVIDIA HEALTH                      | DFT0001574      | 05/05/2023 | Employee Health Savings Contribution          | 142.30               |
| DEPARTMENT OF RETIREMENT SYSTEMS   | DFT0001575-1582 | 05/05/2023 | Public Employees Retirement                   | 33,819.42            |
| NAVIA                              | DFT0001583      | 05/05/2023 | Employee Flexible Spending Account            | 996.48               |
| BANK OF AMERICA 941                | DFT0001584      | 05/05/2023 | Federal Taxes                                 | 27,852.18            |
| BROWN, STEPHANIE                   | 10214           | 05/05/2023 | Void  | -                    |
| FIRSOV, ALEKS                      | 10215           | 05/05/2023 | Payroll Check                                 | 2,769.63             |
| PAYROLL                            | Electronic Dep. | 05/05/2023 | Direct Deposit                                | 149,908.78           |
| TOTAL                              |                 |            |   | <u>\$ 745,589.64</u> |

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City of Kenmore

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| Vendor | Name                                | Volume    |
|--------|-------------------------------------|-----------|
| 0022   | ASSOCIATION OF WA CITIES            | 21369.16  |
| 0024   | BAKER, DAVID                        | 440.11    |
| 0054   | BULGER SAFE & LOCK, INC.            | 570.64    |
| 0064   | CASCADE PEST CONTROL                | 618.32    |
| 0067   | CENTER FOR HUMAN SERVICES           | 9990      |
| 0076   | CITY OF BELLEVUE                    | 97992.73  |
| 0083   | CITY OF LAKE FOREST PARK            | 54026     |
| 0092   | CODE PUBLISHING COMPANY             | 4271.75   |
| 0099   | CONSOLIDATED PRESS                  | 9485.91   |
| 0109   | DAILY JOURNAL OF COMMERCE           | 1543.9    |
| 0121   | REPUBLIC SERVICES                   | 6766.4    |
| 0130   | EMPLOYMENT SECURITY DEPARTMENT      | 12967.2   |
| 0137   | FERGUSON ENTERPRISES INC #3011      | 5679.17   |
| 0151   | CALPORTLAND COMPANY                 | 1579.33   |
| 0173   | HOME DEPOT CREDIT SERVICES          | 2538.11   |
| 0184   | INSLEE, BEST, DOEZIE & RYDER, P.S.  | 127374.24 |
| 0189   | INTERNATIONAL CITY/CNTY MGMT ASSOC  | 1200      |
| 0191   | INTERNATIONAL INST OF MUNI CLERKS   | 225       |
| 0197   | JET CITY PRINTING                   | 1390.57   |
| 0205   | KENMORE HERITAGE SOCIETY            | 820       |
| 0206   | KENMORE MIDDLE SCHOOL               | 2500      |
| 0213   | KING COUNTY ANIMAL SVCS             | 425       |
| 0216   | KING COUNTY FINANCE                 | 500       |
| 0219   | KING COUNTY FINANCE                 | 133437.9  |
| 0230   | KING COUNTY RADIO COMM SERVICES     | 319.84    |
| 0235   | KING COUNTY TREASURY                | 61227.82  |
| 0251   | LIGHTHOUSE CONSULTING INC           | 40847.48  |
| 0260   | MEEHAN, NANCY                       | 46.04     |
| 0261   | PENDLETON CONSULTING LLC            | 2534.73   |
| 0267   | MR. T'S TROPHIES & AWARDS LLC       | 265.45    |
| 0286   | NORTHSHORE SCHOOL DISTRICT          | 15312     |
| 0287   | NORTHSHORE SENIOR CENTER            | 25625     |
| 0288   | NORTHSHORE UTILITY DIST             | 51541.04  |
| 0289   | NORTHSHORE YMCA                     | 10000     |
| 0292   | HONEY BUCKET                        | 1741      |
| 0300   | OFFICE DEPOT                        | 2069.47   |
| 0304   | OLYMPIC ENVIRONMENTAL RESOURCES INC | 15573.36  |
| 0310   | PACIFIC TOPSOILS                    | 3302.94   |
| 0311   | PARAMETRIX INC                      | 40912.18  |
| 0314   | PETTY CASH CUSTODIAN                | 357.66    |
| 0328   | PUGET SOUND ENERGY                  | 145019.47 |
| 0329   | PUGET SOUND FINANCE OFFICERS ASSOC  | 75        |
| 0345   | SEATTLE TIMES                       | 3619.06   |
| 0355   | STAPLES ADVANTAGE                   | 4754.27   |
| 0356   | STATE AUDITOR'S OFFICE              | 2520      |
| 0357   | STEWART MACNICHOLS HARMELL, INC.    | 20000     |
| 0365   | TOTAL LANDSCAPE CORP                | 32533.86  |
| 0371   | UNITED STATES POSTMASTER            | 4245.49   |
| 0375   | US POSTAL SERVICE (HASLER)          | 3617.59   |
| 0385   | WA ASSOC OF BUILDING OFFICIALS      | 879.31    |
| 0387   | WA CITIES INSURANCE AUTHORITY       | 643692    |
| 0390   | WA FINANCE OFFICERS ASSOCIATION     | 150       |

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| Vendor | Name  | Volume    |
|--------|---|-----------|
| 0391   | WASHINGTON MUNICIPAL CLERKS ASSOC           | 200       |
| 0400   | WASHINGTON STATE DEPT OF REVENUE            | 22770.22  |
| 0401   | WA STATE DEPT OF TRANSPORTATION             | 3421.55   |
| 0405   | WASHINGTON STATE OFFICE CASH MGMT           | 788       |
| 0412   | WM CORPORATE SVCS - COLUMBIA RIDGE LANDFILL | 14911.61  |
| 0419   | WONDERLAND DEVELOPMENT                      | 500       |
| 0424   | MISSION SQUARE 457 / 304745                 | 49275.4   |
| 0425   | DRS 457                                     | 5095      |
| 0426   | AFLAC                                       | 836.16    |
| 0428   | BANK OF AMERICA 941                         | 237719.1  |
| 0429   | AWC EMPLOYEE BENEFIT TRUST                  | 341398.44 |
| 0431   | DEPARTMENT OF RETIREMENT SYSTEMS            | 293151.93 |
| 0432   | DEPARTMENT OF LABOR AND INDUSTRIES          | 18720.82  |
| 0434   | UNITED WAY OF KING COUNTY                   | 160       |
| 0436   | NATIONAL LIFE OF VERMONT                    | 492.68    |
| 0448   | UPS STORE KENMORE                           | 83.52     |
| 0449   | ACF WEST INC                                | 84.63     |
| 0450   | AURORA RENTS                                | 4077.03   |
| 0473   | ARTS OF KENMORE                             | 4750      |
| 0483   | PAT'S TREES AND LANDSCAPE INC.              | 1541.4    |
| 0484   | CITY WIDE FENCE COMPANY, INC                | 18654.25  |
| 0494   | SECRETARY OF STATE                          | 292.86    |
| 0542   | AMERICAN SOCIETY OF COMPOSERS               | 420       |
| 0550   | KING COUNTY RECORDER'S OFFICE               | 277.5     |
| 0558   | SNOHOMISH COUNTY                            | 4732      |
| 0586   | QUADIENT LEASING USA, INC.                  | 710.14    |
| 0588   | ENVIRONMENTAL SYSTEMS RESEARCH INST         | 32022.6   |
| 0610   | WA STATE DEPT OF TRANSPORTATION             | 153.68    |
| 0685   | PACE ENGINEERS, INC.                        | 2816.5    |
| 0689   | DIGITAL REPROGRAPHICS SERVICES INC.         | 126.27    |
| 0690   | BUILDERS EXCHANGE OF WASHINGTON INC         | 243       |
| 0692   | HDR ENGINEERING, INC                        | 190027.58 |
| 0696   | AMERICAN GENERAL LIFE GPO/4005              | 1192.22   |
| 0781   | QUALITY BUSINESS SYSTEMS INC.               | 1914.38   |
| 0817   | GRAINGER                                    | 2662.55   |
| 0851   | EVERMARK, LLC                               | 264.86    |
| 0868   | JAYMARC AV                                  | 1183.58   |
| 0892   | JACOBS ENGINEERING GROUP                    | 24455.02  |
| 0898   | ZONAR SYSTEMS                               | 528.21    |
| 0899   | SHRED IT, C/O STERICYCLE, INC>              | 2195.26   |
| 0913   | KENMORE ELEMENTARY                          | 2500      |
| 0937   | ZUMAR                                       | 1650.95   |
| 0981   | COMCAST BUSINESS                            | 937.39    |
| 0994   | GORDON THOMAS HONEYWELL                     | 13545     |
| 1003   | iWORQ SYSTEMS                               | 2800      |
| 1010   | WESTLAKE HARDWARE WA-153                    | 2393.16   |
| 1045   | HORIZON DISTRIBUTORS INC                    | 949.52    |
| 1052   | FIRE PROTECTION, INC                        | 7493.86   |
| 1053   | INTERNATIONAL CODE COUNCIL, INC             | 77.62     |
| 1068   | WA STATE DEPT OF LABOR & INDUSTRIES         | 243.1     |
| 1123   | AM TEST, INC                                | 920       |
| 1140   | PAWS  | 440       |
| 1197   | MILLER STEPHENS, MARY                       | 5000      |
| 1267   | AUTOMATED CONTROLS/ALBIREO ENERGY           | 1079.64   |
| 1297   | GOVERNMENT FINANCE RESEARCH GROUP           | 1995      |
| 1299   | VERIZON WIRELESS                            | 240.2     |
| 1313   | BOTHELL KENMORE CHAMBER OF COMMERCE         | 2100      |
| 1322   | AABCO BARRICADE COMPANY INC.                | 793.22    |

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| 1331   | KBA INC.                                  | 135520.51 |
| 1337   | STATE OF WA DEPT. OF LICENSING            | 2.16      |
| 1358   | ALPHAGRAPHS                               | 606.26    |
| 1383   | CHICAGO TITLE                             | 397.98    |
| 1385   | AZTECA SYSTEMS, LLC/CITYWORKS             | 42751.83  |
| 1390   | UTILITIES UNDERGROUND LOCATION CTR        | 731.43    |
| 1403   | OSBORN CONSULTING INC.                    | 201143.38 |
| 1410   | SEATTLE & KING COUNTY PUBLIC HEALTH       | 833       |
| 1431   | BRIEN, GAYLYNN                            | 200       |
| 1452   | CITY OF KENT                              | 500       |
| 1456   | HESTON PHOTOGRAPHY                        | 195       |
| 1459   | FLEMINGS HOLIDAY LIGHTING LLC             | 1598.51   |
| 1478   | HERBIG, NIGEL                             | 97.33     |
| 1482   | HIGHWIRE                                  | 2059.7    |
| 1485   | WA ASSOC OF PUBLIC RECORDS OFFICERS       | 25        |
| 1504   | SCORE                                     | 48507.35  |
| 1524   | GRANICUS LLC                              | 6372.73   |
| 1544   | METROPOLITAN TRANS. COMMISSION            | 2000      |
| 1547   | LOYUK, SAMANTHA                           | 513.5     |
| 1550   | THE EVP GROUP                             | 7500      |
| 1555   | LINCOLN NATIONAL LIFE INSURANCE           | 7205.47   |
| 1596   | NW ENVIRONMENTAL TRAINING CENTER          | 195       |
| 1629   | WESTERN DISPLAY FIREWORKS, LTD.           | 6875      |
| 1634   | SREBNIK, DEBRA                            | 1670.99   |
| 1673   | KPFF CONSULTING ENGINEERS                 | 155341.21 |
| 1689   | MOTT MACDONALD GROUP, INC.                | 29685.54  |
| 1711   | SOFTWAREONE, INC.                         | 16135.49  |
| 1731   | NORTHWEST ARBORICULTURE LLC               | 7491.2    |
| 1754   | RFI ENTERPRISES INC.                      | 1582.28   |
| 1763   | REID, JAMES FALCONER                      | 8401.25   |
| 1816   | NAVIA                                     | 16214.17  |
| 1828   | QUALITY BUSINESS SYSTEMS / WELLS FARGO    | 2768.32   |
| 1838   | AVIDIA HEALTH                             | 1230.7    |
| 1884   | HEIDELBERG MATERIALS                      | 1512.25   |
| 1885   | NATIONAL BARRICADE CO., LLC               | 1137.73   |
| 1889   | WILLIAMS, KASTNER & GIBBS PLLC            | 1739.5    |
| 1900   | ASPECT CONSULTING LLC                     | 1280      |
| 1914   | MCNAMARA SIGNS                            | 2235.03   |
| 1930   | T MOBILE USA, INC.                        | 4152.75   |
| 1932   | U.S. BANK N.A. / CUSTODY                  | 90        |
| 1943   | BALDWIN DESIGN WORKS, LTD.                | 1469      |
| 1960   | WALTER E. NELSON CO.                      | 1393.38   |
| 1979   | MSPT XXII, LLC C/O FLYWAY RETAIL + LIVING | 3000      |
| 1980   | HRA VEBA TRUST                            | 20545.92  |
| 1991   | WASHINGTON STATE TREASURER                | 4451      |
| 1993   | HYAS GROUP, LLC                           | 3750      |
| 1994   | LAKE CITY PARTNERS ENDING HOMELESSNESS    | 1125      |
| 1999   | KING COUNTY POLICE CHIEFS ASSOCIATION     | 50        |
| 2004   | RED BARN ENGINEERING, INC.                | 24830     |
| 2047   | PUGET SOUND PLANTS                        | 1678.11   |
| 2048   | SMS CLEANING, INC.                        | 25980     |
| 2052   | J. A. BRENNAN ASSOCIATES, PLLC            | 25345.71  |
| 2078   | WA RECREATION & PARK ASSOC.               | 1250      |
| 2081   | SHANNON & WILSON, INC.                    | 2850      |
| 2126   | SCHWARZWALTER, MARK                       | 218       |
| 2137   | ECIVIS, INC.                              | 4000      |
| 2142   | MISSION SQUARE / 109964                   | 201029.45 |
| 2175   | ELECTRONIC BUSINESS MACHINES              | 740.06    |

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| Vendor | Name  | Volume    |
|--------|---|-----------|
| 2176   | CANON FINANCIAL SERVICES, INC.              | 1064.32   |
| 2183   | SISKUN POWER EQUIPMENT                      | 877.85    |
| 2209   | MORUP SIGNS, INC.                           | 715.65    |
| 2210   | PACWEST MACHINERY                           | 9380.77   |
| 2221   | O'REILLY/FIRST CALL                         | 157.34    |
| 2236   | COMCAST                                     | 8343.54   |
| 2249   | KING COUNTY BAR ASSOCIATION                 | 450       |
| 2250   | NAMI EASTSIDE                               | 2625      |
| 2252   | TRUGREEN                                    | 2318.71   |
| 2254   | U.S. BANK PURCHASE CARDS                    | 85900.01  |
| 2262   | DILIGENT CORPORATION                        | 17736.86  |
| 2270   | LAKESIDE INDUSTRIES                         | 1185.78   |
| 2282   | RICK BURNSTEAD CONSTRUCTION, LLC            | 2932      |
| 2284   | ENVIROTECH                                  | 7973.66   |
| 2285   | QUALITY WATER FINANCIAL                     | 912.95    |
| 2311   | BEST BEST & KRIEGER LLP ATTORNEYS AT LAW    | 4433.5    |
| 2327   | PACIFIC AIR CONTROL, INC.                   | 3649.81   |
| 2330   | PROMOTIONS NOW                              | 236.05    |
| 2334   | NORTHSHORE YOUTH SOCCER ASSOC.              | 55        |
| 2338   | 58 STARS TRAVEL                             | 2442.6    |
| 2353   | NORTHSHORE SCHOOLS FOUNDATION               | 750       |
| 2360   | O'CAIN, MELANIE                             | 295.5     |
| 2361   | BFI 4 LLC                                   | 2000      |
| 2369   | MARIA SZABLYA RIVAS                         | 150       |
| 2386   | CECCANTI, INC.                              | 401677.46 |
| 2389   | JET CITY CLEANING                           | 7186.24   |
| 2392   | DEPARTMENT OF COMMERCE                      | 47219.75  |
| 2393   | SEATTLE PUMP & EQUIPMENT CO./JETTERS NORTHW | 457.47    |
| 2396   | ZIPLY FIBER                                 | 3300.47   |
| 2403   | AMERICALL                                   | 598.94    |
| 2413   | ICLEI                                       | 1200      |
| 2425   | THOMCO CONSTRUCTION, INC.                   | 698851.75 |
| 2427   | LAKESIDE INDUSTRIES                         | 49544.03  |
| 2431   | ALPINE PRODUCTS INC.                        | 420.1     |
| 2437   | LOUDEDGE, INC.                              | 1125      |
| 2459   | NELSON ELECTRIC, INC.                       | 5752.44   |
| 2464   | D.P. NICOLI, INC.                           | 923.58    |
| 2465   | PRECISION CONCRETE CUTTING                  | 6355.87   |
| 2468   | DAVIDSON MACRI SWEEPING, INC.               | 4157.38   |
| 2484   | LUKASZ LISOWSKI                             | 322.64    |
| 2486   | CASCADIA LAW GROUP                          | 5259.38   |
| 2489   | THE ORIGINAL POOP BAGS                      | 1319.89   |
| 2503   | NORTH AMERICAN SAFETY, INC.                 | 3098.5    |
| 2511   | SALCIDO, LETICIA                            | 80.32     |
| 2530   | CASCADIA CONSULTING GROUP, INC.             | 35815     |
| 2531   | BCN TELECOM, INC.                           | 2420.86   |
| 2537   | HUNTINGTON TECHNOLOGY FINANCE               | 44525.18  |
| 2540   | BRIGHT SPARK EARLY LEARNING SERVICES        | 675       |
| 2545   | KLB CONSTRUCTION, INC.                      | 202865.64 |
| 2561   | PRR, INC                                    | 73331.77  |
| 2570   | H.D. FOWLER COMPANY                         | 1728.3    |
| 2577   | APPLEONE EMPLOYMENT SERVICES                | 17092.68  |
| 2578   | CENTRICITY GIS, LLC                         | 1625      |
| 2579   | CHANIN KELLY-RAE CONSULTING LLC             | 14685     |
| 2589   | ABRACADABRA PRINTING                        | 1350.56   |
| 2598   | WAGNER ARCHITECTS                           | 49354     |
| 2609   | DTG RECYCLE                                 | 1172.67   |
| 2617   | STRIDER CONSTRUCTION CO., INC.              | 652533.31 |

IX. C. Approve  
Total Check #s 52011 through 52112 totaling \$488,749.80 a...

## Vendor Purchasing Report

Page 25 of 45  
For Date Range 01/01/2023 - 05/12/2023

Vendor Set: Vendor Set 01

| Vendor                          | Name  | Volume     |
|---------------------------------|---|------------|
| 2618                            | STEPHANIE LUCASH                              | 512.91     |
| 2641                            | VENTILATION POWER CLEANING, INC.              | 6176.3     |
| 2642                            | WASHINGTON AUDIOLOGY SERVICES, INC.           | 1080.5     |
| 2660                            | WASHINGTON FEDERAL BANK                       | 17292.82   |
| 2661                            | JASON RICHARD SPERLING                        | 600        |
| 2667                            | CREATION ORGANICS, LLC                        | 2182.38    |
| 2691                            | E SQUARED SYSTEMS, LLC                        | 264.24     |
| 2692                            | PREMIER MEDIA GROUP                           | 1000       |
| 2700                            | ORION ENVIRONMENTAL COMPLIANCE & CONSULTIN    | 1861.75    |
| 2707                            | ONTRA MARKETING GROUP                         | 300        |
| 2725                            | NICKOLAI MEDVEDITSKOV                         | 10786.6    |
| 2728                            | NARWHAL MET, LLC                              | 800        |
| 2731                            | ROBERT SAYRE-MCCORD                           | 148.8      |
| 2736                            | PAUL LEE                                      | 43255.1    |
| 2737                            | THERESA TIMMES KING                           | 150        |
| 2738                            | JULIANA FISHER                                | 150        |
| 2745                            | HOME COMFORT ALLIANCE                         | 228.48     |
| 2747                            | CHRISTINE CABATIT                             | 298.49     |
| 2748                            | GOURAV MITRA                                  | 250        |
| 2750                            | MID SOUND FISHERIES                           | 250        |
| 2751                            | MERANDA DIRECTO                               | 311.85     |
| 2752                            | MEADOWDALE MARINA LLC                         | 7500       |
| 2755                            | CITY OF KIRKLAND                              | 41049.69   |
| 2756                            | DIVYA GATTU                                   | 150        |
| 2757                            | KAT ZUO                                       | 100        |
| 2758                            | ALEXA'S CATERING INC.                         | 1531       |
| 2759                            | SAID HAMOOD                                   | 150        |
| 2761                            | KARA VAN LUCHENE                              | 150        |
| 2762                            | APPLIANCE REPAIR MM LLC                       | 78.73      |
| 2763                            | LA CONNER INN                                 | 758        |
| 2764                            | RHOMAR INDUSTRIES, INC.                       | 42.96      |
| 2765                            | TRUSTEES OF THE HAMLINE UNIVERSITY OF MINNESC | 4433.02    |
| 2767                            | GAMES2U                                       | 572.5      |
| 2769                            | DEBUG MOBILITY PRODUCTS                       | 2865       |
| 2770                            | EARTHCRAFT SERVICES, INC.                     | 3853.5     |
| 2771                            | GIRL SCOUTS OF WESTERN WA                     | 150        |
| 2772                            | POLYGON WLH LLC                               | 7500       |
| 2773                            | REGIONAL CRISIS RESPONSE AGENCY               | 41049.69   |
| 2774                            | KISHORE SERALATHAN                            | 17731.35   |
| 2775                            | LIUBOV UZIK                                   | 150        |
| 2776                            | KERALA ASSOCIATION OF WASHINGTON              | 250        |
| 2778                            | OUTCOMES BY LEVY, LLC                         | 8300       |
| 2779                            | SYDNEY DANZIGER                               | 150        |
| 2780                            | XEROX CORPORATION                             | 160.07     |
| 2781                            | PANIC, ANXIETY, AND STRESS SUPPORT INC.       | 398.46     |
| 2782                            | HILLIS CLARK MARTIN & PETERSON P.S.           | 900        |
| 2783                            | IRUM YASIR BUTT                               | 250        |
| 2784                            | WA STATE PUBLIC HEALTH LABORATORIES           | 250        |
| 2787                            | KENNETH RIDOUT                                | 7500       |
| 2788                            | PHOENIX UNITED INVESTMENT LLC                 | 7500       |
| 2789                            | SCHEMATA WORKSHOP INC.                        | 16447.5    |
| 2790                            | TRIPLE POINT LLC                              | 35360.4    |
| 2791                            | BUSINESS STREET, LLC                          | 20000      |
| 2792                            | STRATEGIES 360, INC.                          | 4116.67    |
| 2793                            | ERGOLOGY LLC                                  | 275        |
| Vendor Set Vendor Set 01 Total: |   | 6816894.13 |

IX. C. Approve  
Total Check #s 52011 through 52112 totaling \$488,749.80 a...











05-12-2023

Final Audit Report

2023-05-16

|                 |  |
|-----------------|--|
| Created:        | 2023-05-15                                   |
| By:             | Carla Schnee (cschnee@kenmorewa.gov)         |
| Status:         | Signed                                       |
| Transaction ID: | CBJCHBCAABAAOPE_ToQ34p9WN9exKQZNWOUr8b38HYaf |

## "05-12-2023" History

-  Document created by Carla Schnee (cschnee@kenmorewa.gov)  
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-  Document emailed to mmerrell@kenmorewa.gov for signature  
 2023-05-15 - 11:23:23 PM GMT
-  Email viewed by mmerrell@kenmorewa.gov  
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-  Signer mmerrell@kenmorewa.gov entered name at signing as Melinda Merrell  
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 Signature Date: 2023-05-15 - 11:24:28 PM GMT - Time Source: server- IP address: 50.235.209.34
-  Document emailed to rkarlinsey@kenmorewa.gov for signature  
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-  Email viewed by rkarlinsey@kenmorewa.gov  
 2023-05-16 - 2:53:29 AM GMT- IP address: 50.235.209.34
-  Signer rkarlinsey@kenmorewa.gov entered name at signing as Rob Karlinsey  
 2023-05-16 - 2:54:02 AM GMT- IP address: 50.235.209.34
-  Document e-signed by Rob Karlinsey (rkarlinsey@kenmorewa.gov)  
 Signature Date: 2023-05-16 - 2:54:04 AM GMT - Time Source: server- IP address: 50.235.209.34
-  Agreement completed.  
 2023-05-16 - 2:54:04 AM GMT



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

|  |  |                                     |                                  |                                   |                            |                                      |                            |                                  |                  |  |                            |
|--|--|-------------------------------------|----------------------------------|-----------------------------------|----------------------------|--------------------------------------|----------------------------|----------------------------------|------------------|--|----------------------------|
| <p><b>Subject/Topic:</b><br/>Kenmore Municipal Code Title 12 Ordinance</p> <p><b>Proposed Council Action/Motion:</b><br/>Adopt Ordinance 23-0578 and update Title 12 of the Kenmore Municipal Code</p>   | <p><b>For Council Meeting Agenda of:</b> May 22, 2023</p> <p><b>Departments:</b> Public Works Engineering</p> <p><b>Prepared by:</b> John Vicente, Engineering Director</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 80%;"><b>Approved by Department Head:</b></td><td style="text-align: right;"><u><b>Initial &amp; Date</b></u></td></tr> <tr> <td><b>Approved by City Attorney:</b></td><td style="text-align: right;"><u><b>JV 5/02/2023</b></u></td></tr> <tr> <td><b>Approved by Finance Director:</b></td><td style="text-align: right;"><u><b>DR 5/02/2023</b></u></td></tr> <tr> <td><b>Approved by City Manager:</b></td><td style="text-align: right;"><u><b>NA</b></u></td></tr> <tr> <td></td><td style="text-align: right;"><u><b>RK 5/02/2023</b></u></td></tr> </table> <p><b>Exhibits/Attachments:</b><br/>Attachment A: Ordinance 23-0578</p> | <b>Approved by Department Head:</b> | <u><b>Initial &amp; Date</b></u> | <b>Approved by City Attorney:</b> | <u><b>JV 5/02/2023</b></u> | <b>Approved by Finance Director:</b> | <u><b>DR 5/02/2023</b></u> | <b>Approved by City Manager:</b> | <u><b>NA</b></u> |  | <u><b>RK 5/02/2023</b></u> |
| <b>Approved by Department Head:</b>  | <u><b>Initial &amp; Date</b></u>   |                                     |                                  |                                   |                            |                                      |                            |                                  |                  |  |                            |
| <b>Approved by City Attorney:</b>  | <u><b>JV 5/02/2023</b></u>   |                                     |                                  |                                   |                            |                                      |                            |                                  |                  |  |                            |
| <b>Approved by Finance Director:</b>   | <u><b>DR 5/02/2023</b></u>   |                                     |                                  |                                   |                            |                                      |                            |                                  |                  |  |                            |
| <b>Approved by City Manager:</b>   | <u><b>NA</b></u>   |                                     |                                  |                                   |                            |                                      |                            |                                  |                  |  |                            |
|  | <u><b>RK 5/02/2023</b></u>   |                                     |                                  |                                   |                            |                                      |                            |                                  |                  |  |                            |
| <p><b>Recommendation:</b></p> <p>Adopt Ordinance 23-0578 and update Title 12 of the Kenmore Municipal Code</p>   |  |                                     |                                  |                                   |                            |                                      |                            |                                  |                  |  |                            |
| <p><b>Information/Background:</b></p> <p>On April 3, April 17, and May 1, 2023, council was provided an overview of changes proposed to Chapters 12.05 through 12.95 of Kenmore Municipal Code (KMC) Title 12.</p> <p>As discussed during those council meetings, KMC Title 12 focuses on activity and other actions within the city's right of way. Title 12 currently consists of 19 sections. Of those 19 sections, 3 have been repealed and are no longer in use. Some of the general changes made with the title were global in nature and meant to improve consistency and organization of the title. In general, those changes consisted of:</p> <ul style="list-style-type: none"> <li>• Grammatical corrections/edits</li> <li>• Consolidation of definitions</li> <li>• Text moved to more logical locations for better flow</li> <li>• Defined terms were italicized for consistency with the rest of the KMC</li> <li>• Renaming of terms to be consistent with other documents</li> </ul> <p>Additional changes were made to meet with current state law, to close gaps in the code, and to revise out-of-date information.</p> <p>Attachment A contains the updated Title 12 with changes for adoption.</p> <p>IX. D. Adopt Ordinance No. 23-0578 updating Title 12 of the Kenmore Muni...</p> |  |                                     |                                  |                                   |                            |                                      |                            |                                  |                  |  |                            |

**Fiscal Considerations:**

None. Staff and legal review time were spent to work on this update

**Council Goal/Budget Being Addressed:**

**Council Goal 3:** Enhance Multimodal Transportation Implementation including Pedestrian and Bicycle Safety.

**Council Goal 4:** Develop and Implement a Diversity, Equity, and Inclusion Policy and Program

**Council Goal 6:** Enhance Public Safety

**CITY OF KENMORE  
WASHINGTON  
ORDINANCE NO. 23-0578**

---

**AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON,  
REPEALING TITLE 12 OF THE KENMORE MUNICIPAL CODE,  
ENTITLED "STREETS AND BRIDGES"; ADOPTING A NEW  
TITLE 12 OF THE KENMORE MUNICIPAL CODE, ENTITLED  
"STREETS, SIDEWALKS, AND PUBLIC SPACES"; PROVIDING  
FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE  
DATE.**

WHEREAS, Title 12 of the Kenmore Municipal Code (KMC) establishes regulation for use of the public right-of-way; and

WHEREAS, City staff has proposed the adoption of new and updated changes to Title 12 KMC; and

WHEREAS, the City's Responsible Official under the State Environmental Policy Act issued a determination of non-significance for the proposed Title 12 KMC changes; and

WHEREAS, on April 3rd, April 17<sup>th</sup>, and May 1<sup>st</sup> 2023, the City Council was presented with and considered the proposed changes to Title 12; and

WHEREAS, the City Council desires to adopt the new Title 12;

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

Section 1.    Repealer. The City Council repeals Title 12 of the Kenmore Municipal Code, entitled "Streets and Bridges".

Section 2.    Adoption of New Title 12 of the Kenmore Municipal Code. The City Council adopts a new Title 12 of the Kenmore Municipal Code, entitled "Street, Sidewalks, and Public Spaces" as set forth on Exhibit 1, attached hereto and incorporated herein by reference.

Section 3.    Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, phrase or word thereof, irrespective

of the fact that any one or more sections, subsections, sentences, clauses, phrases or words be declared unconstitutional.

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

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE \_\_\_TH DAY OF \_\_\_\_\_, 2023.

CITY OF KENMORE

\_\_\_\_\_  
Nigel Herbig, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Michelle Kang, Deputy City Clerk

Approved as to form:

\_\_\_\_\_  
Dawn Reitan, City Attorney

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



**Title 12****STREETS, SIDEWALKS AND PUBLIC SPACES****Chapters:**

- 12.05 General Provisions**
- 12.10 Official Street System**
- 12.15 Street Closures and Load Restrictions on Streets**
- 12.20 Load Limits on Bridges**
- 12.25 *Repealed***
- 12.30 *Repealed***
- 12.35 Rights-of-Way**
- 12.40 Permit System for Use of City Real Property**
- 12.45 Complete Streets Policy**
- 12.50 Road Standards**
- 12.55 Utilities on City Rights-of-Way**
- 12.58 Wireless Communication Facilities within City Rights-of-Way**
- 12.60 Public and Private Utilities on Real Property**
- 12.65 Snow Emergency Routes**
- 12.70 Sidewalks, Planting Strips and Street Trees**
- 12.75 *Repealed***
- 12.80 Integrated Transportation Program**
- 12.85 State Route 522 Access Management Program**
- 12.90 Transportation Benefit District**
- 12.95 Right-of-Way Vacations**

## Chapter 12.05

### GENERAL PROVISIONS

#### Sections:

- 12.05.010 *Repealed.*
- 12.05.015 Intent.
- 12.05.020 Financial guarantees authorized.
- 12.05.030 Definitions.
- 12.05.040 Removal of facilities and personal property in City rights-of-way.
- 12.05.050 Violation – Enforcement – Penalty.

#### **12.05.010 Relationship to comprehensive plan and Growth Management Act.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.02.010).]

#### **12.05.015 Intent.**

A. This code is enacted to protect and preserve the public health, safety and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes. It is also the purpose of this code to regulate activities within the *rights-of-way* in the interest of public health, safety and welfare; and to provide for the fees, charges, enforcement, and procedures required to administer such regulations.

B. It is expressly the purpose of this code and any procedures adopted hereunder to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code or any procedures adopted hereunder.

C. It is the specific intent of this code and any procedures adopted hereunder to place the obligation of complying with the requirements of this code upon the persons, organizations, *utility*, or *permittees* adjacent to or seeking to use the rights-of-way, and no provision is intended to impose any duty upon the City of Kenmore, or any of its officers, employees or agents. Nothing contained in this code or any procedures adopted hereunder is intended to be or shall be construed to create or form the basis for liability on the part of the City of Kenmore, or its officers, employees or agents, for any injury or damage resulting from the failure of the persons, organizations, *utility*, or *permittees* to comply with the provisions hereof, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this code or any procedures adopted hereunder by the City of Kenmore, its officers, employees or agents.

D. All *work* performed or contracted by the *City* within the *right-of-way* is exempt from the permitting requirements outlined in this Title. [Ord. 18-0458 § 1 (Att. A).]

#### **12.05.020 Financial guarantees authorized.**

The *city manager* is authorized to require all *applicants* issued permits or approvals under the provisions of this title to post financial guarantees consistent with the provisions of KMC Title 21. [Ord. 18-0458 § 1 (Att. A); Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.02.020).]

#### **12.05.030 Definitions.**

This section contains definitions of terms used throughout this title.

A. “Abutting property” means real property having a frontage upon or common boundary with the sides or margins of any road or right-of-way.

B. “Applicant” means a property owner(s), person(s), company, public agency, or public or private utility, or authorized agent of the applicant who files an application for a permit under this title requesting approval to access/use publicly owned land or right of way.

C. “Application” means an application form supplied by the City and completed by the *applicant*, payment for the required application fee(s), and related property site, driveway, roadway, traffic information, and any other documentation as determined necessary by the City in the evaluation of the application.

D. “City” means the City of Kenmore.

E. “City manager” means the City of Kenmore city manager or his or her designee(s).

F. “City engineer” means the city engineer herein authorized with the same powers specified in RCW 36.75.050 and 36.80, or his/her authorized representatives. Whereas “County” shall be replaced with “City” throughout.

G. “City project” means any work performed by the City (either with city personnel or by way of contract) including but not limited to capital projects, *maintenance*, or repair/*restoration* activities.

H. “City property” means all City real property, including but not limited to recreational trails, critical areas, roads, parks and dedicated open space, that is owned by the City.

I. “Contractor” means any person, firm, corporation, or other entity who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, develop, move, wreck, demolish, or excavate for any structure, road, sidewalk or other infrastructure below ground, at ground or above ground.

J. “Curb” means a cement, concrete or asphalt raised structure designed to delineate the edge of the travel way or pavement, to separate the vehicular portion from that provided for pedestrians or bicyclists, and for surface water drainage control.

K. “Department” means the City department or outside agency assigned by the city manager to administer a portion of the Municipal code.

L. “Development” means any activity that requires a permit or approval, including, but not limited to, a right-of-way use permit (limited, access, and encroachment), *special use permit*, utility permit, right of use agreement, connection permit, or right-of-way vacation.

M. “Encroachment” means any structure, object, or obstruction, including, but not limited to, building extension, marquee, fence, stairway, railing, retaining wall, artwork, private landscaping, barriers, or any other building or structure constructed, erected or maintained in, over or under any public place, right-of-way, easement, roadway, parking strip and/or sidewalk, including the airspace above them.

N. “Engineering permit” means a *permit* authorizing the use or improvement of privately owned property. Permitted activities include clearing, grading, roads, drainage facilities, utilities.

O “Facility” or “Facilities” means any pole, pipe, line, pipeline, cable, vault, antenna, appurtenances, fixtures, conduit, guys, anchors, vaults, attachments, fencing, or other equipment or structure owned and/or operated by a utility company or public/private agency necessary for a fully functional system.

P. “Franchise” means an agreement granting the non-exclusive right, privilege, and authority to occupy the right-of-way.

Q. “Highway” means the same as “Road.”

R. “Maintenance” means the routine upkeep of the right-of-way or property, equipment, materials, etc. to retain its original function and/or to allow for access or safety.

S. “Permit” means any activity requiring written approval issued by the *City*, subject to conditions stated therein, authorizing the use, construction, alteration, reconstruction, relocation, *maintenance*, or development within the right-of-way or publicly owned real property. This includes, but not limited to, reclassification of a road, street vacation, and traffic control devices.

T. "Permittee" same as "Applicant."

U. "Professional engineer" means a civil engineer with an active status license in the State of Washington registered in accordance with Chapter 18.43 RCW.

V. "Property owner" means a person(s) or entity with ownership of real (fee title and/or mortgages) or personal property.

W. "Restoration" means activities necessary to replace, repair or otherwise restore the *right-of-way* and adjacent private property and all features contained within to the same or better condition as existed prior to any construction and in compliance with the Road Standards.

X. "Right-of-way" means land and the space above and below, property or property interest, such as a right-of-way use easement, as well as bridges, trestles, or other structures, dedicated to, or otherwise acquired by the City of Kenmore for public motor vehicle, pedestrian, bicycle, or other non-motorized transportation purposes, including, but not limited to, roads and trails, whether or not opened, improved or maintained for public transportation purposes.

Y. "Right-of-way use agreement" is an agreement with the City through which is granted a site-specific and revocable privilege to use city right-of-way at a location identified in the agreement for *facilities* and *wireless communication facilities*, and through which are set forth the terms and conditions for exercising the granted privilege to use the City right-of-way. The *city manager* shall have the discretion to use right-of-way use agreements for other purposes as needed.

Z. "Right-of-way use permit, limited" means a *permit* authorizing a person to enter, use and/or improve City right-of-way.

AA. "Right-of-way use permit, access" means a *permit* authorizing to enter and use unopened City right-of-way for a subdivision or property access.

BB. "Right-of-way use permit, encroachment" means a *permit* authorizing the use of the City right-of-way for an *encroachment*.

CC. "Right-of-way utility permit" means a document issued under the authority of the city manager which provides specific authorization, requirements, and conditions for specific utility work at specific locations.

DD. "Road" means the improvements contained within the full width of the right-of-way boundary lines including permanent right-of-way easements obtained for use of the public for purposes of vehicle, pedestrian, and bicycle travel and storm drainage (same as Highway as defined by RCW 46.04.197 and City Street as defined in RCW46.04.120).

EE. "Road Standards" means the City of Kenmore Road Standards adopted under Chapter 12.50 KMC.

FF. "Sidewalk" means that space between the *curb* line or the edge of paved travel lane and the *abutting property*, set aside and intended for the use of pedestrians, improved by paving with cement concrete or asphaltic concrete.

GG. "Special use permit" means a *permit* for the use of *City property* issued pursuant to this title.

HH. "Street" means the same as "Road."

II. "Unimproved *right-of-way*" means any *right-of-way* or portion thereof that has not been improved by the *City* for the use of public transportation. Unimproved right-of-way may contain *facilities*.

JJ. "Utility" means private and public providers/owners of utility infrastructure, including water, wastewater, electric, telephone, telegraph, telecommunications, fiber optic, wireless services, cable television, natural gas lines, and solid waste.

KK. “Wireless” means transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, microwave, or satellite.

LL. “Wireless communication facility” generally means an unmanned *facility* for the transmission and/or reception of radio frequency (RF) signals or other **wireless** communications, typically consisting of one or more antennas, a transmission or alternative transmission support structure, cables and other transmission equipment, and an equipment enclosure or cabinets. **Wireless** communication facility shall not include equipment intended solely for internal household or business use such as **wireless** modems, cellular signal boosters, or personal cellular cellspots.

MM. “Wireless communication provider” means every person that owns, controls, operates or manages a wireless communication facility within the right-of-way for the purpose of offering wireless communications services (i.e. transmission for hire of information in electronic or optical form, including, but limited to, voice, video, or data.

NN. “Work” means any construction or alteration of existing infrastructure, maintenance, or other improvements or actions whether identified under an approved *permit* or not.

OO. “WSDOT” means the Washington State Department of Transportation. [Ord. 18-0458 § 1 (Att. A); Ord. 11-0330 § 1 (Exh. A).]

**12.05.040 Removal of facilities and personal property in City rights-of-way.**

Except as may be required by Chapter 35.99 RCW, any *utility*, company or person (hereby referred to as *owner*) that locates any *facilities* or personal property in the *right-of-way* shall relocate, remove or reroute said *facilities* or personal property, as ordered and in the time frame required by the *City* per this Title, at no expense or liability to the *City*. If an *owner* fails to timely perform such *relocation, removal, or reroute*, then the *city manager* may, but is not required to, order and complete all actions necessary to remove the *facilities* or personal property from the *right-of-way*. The *city manager* may require the *owner* to reimburse the *City* for the reasonable actual costs of removal, including *City* overhead (provided that in no event shall such overhead exceed 10 percent of the total costs, fees and expenses of third parties), within 30 days of the *City’s* invoice. In addition, the *owner* shall indemnify, protect and hold harmless the *City* from any third-party claims for service interruptions or other losses in connection with any such change or removal of the *facilities/* or personal property, other than the *City’s* negligence or willful misconduct. [Ord. 18-0458 § 1 (Att. A).]

**12.05.050 Violation – Enforcement – Penalty.**

A. The violation of or failure to comply with any provision of this title is declared to be unlawful. The *city manager* shall have the authority to enforce this title and to adopt procedures for the purpose of implementing or carrying out other responsibilities required by this title.

B. Any violation or failure to comply with any provision of this title is a civil violation as provided for in Chapter 1.20 KMC, for which a monetary penalty may be assessed and abatement may be required as provided herein. Unless otherwise noted elsewhere within this Title, the *city manager* may, but is not required to, seek voluntary correction pursuant to KMC 1.20.070, prior to the assessment of monetary penalties for violation of this title. [Ord. 18-0458 § 1 (Att. A).]

## Chapter 12.10

### OFFICIAL STREET SYSTEM

Sections:

- 12.10.010 Official street system.
- 12.10.020 *Repealed.*
- 12.10.030 Streets included.
- 12.10.040 *Repealed.*
- 12.10.050 Additions and deletions.
- 12.10.060 *Repealed.*
- 12.10.070 Inclusion of streets which have reverted to City from the County.
- 12.10.080 Inaccuracies corrected.

**12.10.010 Official street system.**

To provide for the administration, *maintenance*, and dedication of *right-of-way* and improvement of the *City's roads*, the *City* needs to identify the official *City* street system. This system will be shown on maps which will also show the *roads* for which the *City* has *maintenance* responsibility. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.010).]

**12.10.020 Maps are exhibits.**

*Repealed* [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.030).]

**12.10.030 Streets included.**

Only those *roads* within the boundaries of the *City* shall be considered part of the *City* street system. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.040).]

**12.10.040 Revision of street exhibits.**

*Repealed* [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.050).]

**12.10.050 Additions and deletions.**

The *city manager* shall have the authority to make additions to, deletions from, or characteristic changes to the *roads* on *City* maps, consistent with RCW 35.78.010. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.060).]

**12.10.060 Streets constructed by Highway Department included.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.070).]

**12.10.070 Inclusion of streets which have reverted to City from the County.**

The *City* street system shall include all *right-of-way* which reverted to King County prior to incorporation by virtue of prescriptive rights as set forth in RCW 36.75.070 and 36.75.080. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.080).]

**12.10.080 Inaccuracies corrected.**

If any inaccuracies appear on the maps that are in conflict with other records on file, the inaccuracies shall be corrected on the maps, if applicable, and in no case shall affect the provisions of this chapter or the status of the maps as official designators of the official *City* street system. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.100).]

## Chapter 12.15

### STREET CLOSURES AND LOAD RESTRICTIONS ON STREETS

#### Sections:

- 12.15.010 Street closure policy.  
12.15.020 Winter and emergency load restrictions.

#### **12.15.010 Street closure policy.**

All *street* closure and load limit restrictions will be disseminated in accordance with this Chapter insofar as it is possible to do so.

A. Emergency services shall be allowed access through any *street* closure unless otherwise determined by the *city engineer* that such access would result in an unsafe condition to the public or the emergency service provider. If access cannot be provided to emergency services, detours shall be submitted to the *City* and all emergency service providers for approval.

B. The school district will be notified prior to 1:00 p.m. on the first business day preceding any *street* closure on a school bus route. If the morning pickup of children is accomplished, the school district will be permitted to use these routes for the returning of the children to their normal bus stops.

C. If sufficient space is available, school buses will be permitted to turn around at the intersection of a school bus route which is closed and the open route with the minimum maneuvering possible on the closed *street* in the intersection area.

D. The *City* will establish the necessary communications with the school district and emergency service providers to provide the proper notifications.

E. *Street* closure as a result of inclement weather shall be consistent with the provisions of Chapter 12.65 KMC, all other inclement weather closures shall be consistent with this Chapter and notifications shall be performed in accordance with KMC 12.65.030.

F. In the event of an emergency, notification of road closures shall be done as soon as possible.

G. It shall be at the *city manager's* discretion to close any *street* and shall have the authority to initiate *street* closures per this policy. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.12.010).]

#### **12.15.020 Winter and emergency load restrictions.**

The following emergency restrictions shall be in effect on *City streets* during such periods of freezing and thawing conditions as determined by the *city manager*:

#### REGULAR WINTER LOAD RESTRICTIONS

| Conventional |                      | Tubeless or Special with 0.5 Marking |                      |
|--------------|----------------------|--------------------------------------|----------------------|
| Tire Size    | Gross Load Each Tire | Tire Size                            | Gross Load Each Tire |
| 7.00         | 1,800 lbs.           | 8-22.5                               | 2,250 lbs.           |
| 7.50         | 2,250 lbs.           | 9-22.5                               | 2,800 lbs.           |
| 8.25         | 2,800 lbs.           | 10-22.5                              | 3,400 lbs.           |
| 9.00         | 3,400 lbs.           | 11-22.5                              | 4,000 lbs.           |

**REGULAR WINTER LOAD RESTRICTIONS**

|       |         |            |         |         |            |
|-------|---------|------------|---------|---------|------------|
| 10.00 |         | 4,000 lbs. | 11-24.5 |         | 4,000 lbs. |
| 11.00 |         | 4,500 lbs. | 12-22.5 |         | 4,500 lbs. |
| 12.00 | or over | 4,500 lbs. | 12-24.5 | or over | 4,500 lbs. |

**EMERGENCY LOAD RESTRICTIONS**

| Conventional Tires |         | Tubeless or Special with 0.5 Marking |           |         |                         |
|--------------------|---------|--------------------------------------|-----------|---------|-------------------------|
| Tire Size          |         | Gross Load Each<br>Tire              | Tire Size |         | Gross Load Each<br>Tire |
| 7.00               |         | 1,800 lbs.                           | 8-22.5    |         | 1,800 lbs.              |
| 7.50               |         | 1,800 lbs.                           | 9-22.5    |         | 1,900 lbs.              |
| 8.25               |         | 1,900 lbs.                           | 10-22.5   |         | 2,250 lbs.              |
| 9.00               |         | 2,250 lbs.                           | 11-22.5   |         | 2,750 lbs.              |
| 10.00              |         | 2,750 lbs.                           | 11-24.5   |         | 2,750 lbs.              |
| 11.00              | or over | 3,000 lbs.                           | 12-22.5   | or over | 3,000 lbs.              |

A further load restriction of five tons gross on any vehicle may be placed on *streets* under severe conditions. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.12.020).]



## Chapter 12.20

### LOAD LIMITS ON BRIDGES

#### Sections:

- 12.20.010 Gross weight allowed and notification.
- 12.20.020 Permits.
- 12.20.030 Maximum gross vehicle weight.
- 12.20.040 Enforcement and penalty.
- 12.20.050 *Repealed*

#### **12.20.010 Gross weight allowed and notification.**

A. It is unlawful for any person to operate a vehicle over any *City* bridge when such vehicle has a gross weight that is greater than the posted maximum weight for that bridge, unless the driver is in possession of a *Right-of-way use permit, limited* – Type B per KMC 12.035.040 issued by the *city manager*.

B. Notice of closing of individual bridges to certain classes or weights of vehicles shall be:

1. Published in a local newspaper of general circulation; and
2. Posted on signs at each end of subject bridge, on or prior to the date of publication. All signs shall be erected and maintained in accordance with RCW 46.61.450 and 47.36.030.

C. Maximum gross weights for vehicles operating over *City* bridges shall be established by ordinance in accordance with RCW 46.44.080.

D. The *city engineer* shall have the authority by administrative determination to immediately impose temporary gross weight limits on bridges based on the results of an engineering investigation. The *city engineer* shall have the authority to immediately erect and maintain official traffic control devices for temporary gross weight limits on bridges in accordance with Chapter 46.90 RCW, WAC 308-330-265 and Chapter 10.05 KMC. The temporary gross weight limits on bridges shall be in effect for not longer than one year from the date of posting or until the weight limits are established by ordinance. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.010).]

#### **12.20.020 Permits.**

The *city manager* is authorized to issue *permits* for the safe use of load limited bridges by emergency vehicles and other vehicles exceeding the posted maximum weight. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.015).]

#### **12.20.030 Maximum gross vehicle weight.**

Those *City* bridges that are posted are done so pursuant to definitions and standards for maximum gross vehicle weight contained in Chapter 46.44 RCW, particularly the vehicle weight table of RCW 46.44.041. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.020).]

#### **12.20.040 Enforcement and penalty.**

Any violation of this chapter is a traffic infraction and subject to a penalty of \$250.00. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.170).]

#### **12.20.050 West Sammamish River Bridge (1071AW).**

[Ord. 14-0374 § 1.]

**Chapter 12.25**

**STANDARD SPECIFICATIONS FOR STREET AND BRIDGE CONSTRUCTION**

**(Repealed by Ord. 05-0231)**

**Chapter 12.30**

**STREET CONSTRUCTION RULES ADOPTED**

**(Repealed by Ord. 05-0231)**

## Chapter 12.35

### RIGHTS-OF-WAY

#### Sections:

- 12.35.010 *Repealed.*
- 12.35.015 *Repealed.*
- 12.35.020 Permit required for improvement or use – Application processing.
- 12.35.025 Time limitation of application.
- 12.35.030 Permit – Additional requirements.
- 12.35.035 Application – Fees.
- 12.35.037 Permit – Fees.
- 12.35.040 Permit – Limited.
- 12.35.050 Permit – Access.
- 12.35.055 Permit – Encroachment.
- 12.35.060 Permit – Application.
- 12.35.065 Obligation – Revocation.
- 12.35.070 Conformance.
- 12.35.075 Covenant.
- 12.35.077 Permit – Interpretation.
- 12.35.080 Enforcement.
- 12.35.090 Retroactivity.
- 12.35.100 *Repealed.*
- 12.35.110 Insurance and Indemnification.
- 12.35.120 Performance Guarantee Required.

#### **12.35.010 Definitions.**

*Repealed by Ord. 11-0330. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.010).]*

#### **12.35.015 Fee exemptions – Beautification permit.**

*Repealed by Ord. 11-0330. [Ord. 04-0206 § 1.]*

#### **12.35.020 Permit required for improvement or use – Application processing.**

##### A. Permits Required.

1. The *right-of-way* shall not be improved and no *development* approval shall be issued unless a *permit* has been issued pursuant to this chapter.
2. The *unimproved right-of-way* shall not be used for access or other purposes unless a *permit* has been issued pursuant to this Chapter.
3. Exceptions: *Utility construction work*, *City projects*, and special events shall be exempt from this chapter. *Utility construction work* shall be authorized pursuant to Chapter 12.55 KMC and special events approved and permitted in accordance with Chapter 8.40 KMC.

##### B. General Procedures.

1. Upon receipt of an *application* for *right-of-way use permit*, *limited*, *access*, or *encroachment*, the *city manager* shall determine whether the proposed activity is within *City-owned right-of-way*.
2. The *City* shall be the lead agency for compliance with the State Environmental Policy Act. In addition, the *city manager* shall review *applications* for compliance with applicable *City* plans, policies, regulations and standards. Prior to issuing a *right-of-way use permit*, the *city manager* may require an appropriate financial guarantee consistent with the provisions of KMC Title 21 be secured by the *applicant* and submitted to the *City*.

3. The *city manager* may, when feasible, utilize an *engineering permit* in-lieu of *right-of-way use permits* to prevent duplication and increase efficiency. All requirements of this Chapter shall apply to any *engineering permit* used in lieu of a *right-of-way use permit*. The fees shall be reduced to the extent separate fees would be duplicative. [Ord. 12-0335 § 4; Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.020).]

**12.35.025 Time limitation of application.**

A. *Applications* for which no *permit* is issued within 18 months following the date of *application* submittal shall expire by limitation and plans and other data submitted for review may thereafter be returned to the *applicant* or destroyed in accordance with State law.

B. *Applications* may be canceled for inactivity, if an *applicant* fails to respond to the *department's* written request for revisions, corrections, actions or additional information within 90 days of the date of request. The *city manager* may extend the response period beyond 90 days if within the original 90-day time period the *applicant* provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information needed by the *department*.

C. The *city manager* may extend the life of an *application* if any of the following conditions exist:

1. Compliance with the State Environmental Policy Act is in progress; or
2. Any other *City* review is in progress; provided, that the *applicant* has submitted a complete response to *City* requests, or the *city manager* determines that unique or unusual circumstances exist that warrant additional time for such response, and the *city manager* determines that the review is proceeding in a timely manner toward final *City* decision; or
3. Litigation against the *City* or *applicant* is in progress, the outcome of which may affect the validity, or the provisions of any *permit* issued pursuant to such *application*.
4. At the sole discretion of the *city manager* when there have been newly adopted codes, fees, ordinances, standards, or laws which affect the *application*. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.030 Permit – Additional requirements.**

A. Plans. Detailed engineering and *restoration* plans and/or drainage plans may be required when determined necessary by the *city manager*. Costs for the preparation of such plans and any required studies shall be borne by the *applicant*.

B. Survey. When determined necessary by the *city manager* to adequately define the limits of *right-of-way* and the existing improvements therein, the *applicant* shall cause the *right-of-way* to be surveyed by a Washington State licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act. The cost for the preparation of such survey shall be borne by the *applicant*.

C. Dedication. An *applicant* may be required to deed additional *right-of-way* across the *property owner's* property when necessary to fulfill the minimum *road* and *right-of-way* widths prescribed in Chapter 12.50 KMC.

D. Illegal Subdivision. A *permit* shall not be issued to provide access to a lot or parcel created in violation of State and/or *City* subdivision regulations.

E. Every *permit* granted under this chapter shall also condition approval consistent with the requirements of Chapter 12.05 KMC, General Provisions. [Ord. 18-0458 § 1 (Att. A); Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.030).]

**12.35.035 Application – Fees.**

A. Each *application* requires a fee, imposed by city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application*.

B. The purpose of this subsection B is to foster the public benefit by encouraging citizens to beautify publicly owned *right-of-way*, without compromising the public's safety. For purposes of maintaining a record of all beautification

projects, a *permit* shall be required prior to commencement of a beautification activity. A *permit* may be issued without charge for projects that satisfy the following criteria:

1. The project involves the planting of flowers or other vegetation that does not hinder the safe use of the *right-of-way* by drivers or others within 10 feet of the fog line or the edge of the pavement, if there is no fog line;
2. The project involves planting adjacent to the *applicant's* property;
3. No shrubs, trees, or structures (such as but not limited to landscape blocks, lawn or yard decorations), are installed within two feet of a *curb* line or, where no *curb* exists, within 10 feet of the edge of pavement. Certain restrictions shall apply to the installation of trees or shrubs. In any case, trees and shrubs shall not be installed that will interfere with sight distance.
4. Improvements that are a hazard to the public or impact *City maintenance* and operation of the *right-of-way* as determined by the *city manager* are prohibited. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.037 Permit – Fees.**

A. The *permittee* shall pay fees for use of the *right-of-way* at the rates imposed by the city council by resolution.

B. The fees shall be collected in accordance with administrative procedures developed by the *department*. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.040 Permit – Limited.**

A. Upon filing of a complete *application*, payment of the fee(s), and posting of the financial guarantee for construction, *maintenance*, and *restoration* of the *right-of-way* consistent with the provisions of KMC Title 21 (as needed), the *city manager* may issue a *permit* authorizing the limited use of *right-of-way*, for use by designated private parties for a specific use.

B. The *permit* may require construction and *restoration* of the *right-of-way* to adopted *City* standards based on the nature and duration of the specific use, and subject to inspection. In addition, conditions may be set to assure compliance with *City* plans, policies, standards and regulations. Such conditions may require performance in excess of adopted *Road Standards*.

C. The *applicant* shall assume sole responsibility for the safe and adequate operation and *maintenance* of any improvements or *work* performed by the *applicant* or the *applicant's* representative in the *right-of-way*.

D. The *applicant* may apply for an extension to the *permit* – upon written *application* for an extension, payment of the applicable fee(s), and being found to be in compliance with the conditions and requirements of the original *permit*. *Permits* shall be limited to one 6-month extension, unless otherwise approved by the *city manager*. *Permit* extensions must be applied for no later than 30 days from the permit expiration date. *Permit* extension is at the sole discretion of the *city manager*.

E. Types of *Right-of-way Use Permits*, Limited.

1. Type A. Activity which will alter the surface or subsurface of the *right-of-way*. Examples are:

- a. Paving operations;
- b. Driveway installation/removal;
- c. *Sidewalk* installation/removal;
- d. Open-cut trenching;
- e. Tree removal/installation;
- f. Storm drainage installation/removal;

- g. Shoulder improvements;
- h. Mailbox installation/removal;
- i. Beautification.

2. Type B. Temporary use of the *right-of-way* which does not change the *right-of-way* surface or subsurface. Examples are:

- a. Temporary storage of material/equipment outside of the pedestrian or vehicle traveled way;
- b. Temporary parking;
- c. Lane/shoulder/pedestrian travel way closures;
- d. Commercial activities in the *right-of-way*;
- e. Investigative activities;

3. Type C. Temporary use of the *right-of-way* which does not change the *right-of-way* surface or subsurface AND requires a *road* closure. Examples are:

- a. Fair or carnival;
- b. Farmer's market;
- c. Parade;
- d. Block party;

F. Permit expiration: *Permits* shall expire as noted below. If the *permit* is approved in conjunction with another *City* issued *permit*, the *permit* may be allowed to expire with the other *City permit*.

1. Type A and B: Type A and B *permits* shall expire 12 months from the date of issuance. *Permits* may be extended an additional 6 months from the date of expiration at the discretion of the *city manager* as long as no changes have been made to the originally approved plans and no new development standards have been adopted.

2. Type C: Type C permits shall expire 3 months from the date of issuance or upon completion of the permitted activity, whichever is shorter. The permit may be extended at the *city manager's* discretion.

3. Permits that have expired beyond the dates noted above, including any extensions, may be extended up to 12 months at the discretion of the *city manager* if any of the following conditions exist:

- a. Compliance with the State Environmental Policy Act is in progress; or
- b. Any other *City* review is in progress; provided, that the *applicant* has submitted a complete response to *City* requests, or the *city manager* determines that unique or unusual circumstances exist that warrant additional time for such response, and the *city manager* determines that the review is proceeding in a timely manner toward final *City* decision; or
- c. Litigation against the *City* or *applicant* is in progress, the outcome of which may affect the validity or the provisions of any permit issued pursuant to such *application*; or
- d. At the sole discretion of the *city manager* when there have been newly adopted codes, fees, ordinances, rules, standards or laws which directly affect the application; or
- e. At the sole discretion of the *city manager* that an extension would be in the interest of the public's welfare.

G. Exemptions: The following activities are exempt from permitting:

1. United States Postal Service mailbox installations are exempt from permitting if replacing in-kind with only de minimis alterations in location or to hard surfaces and no impacts to vehicle or bicycle travel lanes.
2. *Maintenance* activities such as sweeping, shoveling, landscaping, tree trimming, etc. that have no impacts to vehicle or bicycle travel lanes or close pedestrian access.
3. Other temporary activities as determined by the *city manager*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 00-0088 (Exh. B); Ord. 98-0024 §§ 1, 2 (KCC 14.28.050).]

**12.35.050 Permit – Access.**

A. Upon filing of a complete *application* and payment of the fee, the *city manager* may issue a *right-of-way use permit*, *access* authorizing the use of *unimproved right-of-way* for property access.

B. The *applicant* may be required to construct *road* improvements to the adopted *Road Standards* and may be required to post financial guarantees consistent with the provisions of KMC Title 21 for construction, *restoration* and *maintenance*. Construction work and all *restoration work* required by the *permit* shall be completed within one year of the *permit*'s issuance. In addition, the *city manager* may set conditions to assure compliance of the *permit* with other adopted plans, *City* policies, and regulations.

C. The *city manager* may place and maintain permanent sign(s) denoting the end of the *City*-maintained road.

D. The *applicant* shall have sole responsibility for the safe construction, operation and *maintenance* of any work in the *right-of-way* pursuant to the *permit* until such time as the work is officially accepted for *maintenance* by the *City*.

E. Unless earlier revoked by the *city manager*, any *permit* shall be valid for a term of one year and shall be automatically renewable for successive one-year terms unless otherwise terminated by either party. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 00-0085 §§ 1, 3; Ord. 98-0024 §§ 1, 2 (KCC 14.28.060).]

**12.35.055 Permit – Encroachment.**

A. Upon filing of a complete *application* and payment of the fee, the *city manager* may issue a *right-of-way use permit*, *encroachment* authorizing the use of the *right-of-way* for an *encroachment*.

B. An *encroachment permit* may be issued to authorize private construction in *unimproved right-of-way* when it is unlikely in the judgment of the *city manager* that such *right-of-way* will be substantially improved by the *City* or other public agency within the foreseeable future.

In exercising such judgment, the *city manager* may consider existing traffic data in and around the site of the *permit application*, the *City*'s adopted transportation improvement plan, and any other plans, studies, data, or other information deemed relevant to the determination.

C. The *applicant* shall have sole responsibility for the safe construction, operation and *maintenance* of any work within the *right-of-way* pursuant to the *permit*.

D. Unless earlier revoked by the *city manager*, any such *permit* issued shall be valid for a term of one year and shall be automatically renewable for successive one-year terms until such time as the *permit* is revoked. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.060 Permit – Application.**

An *applicant* for a *right-of-way use permit* issued pursuant to this chapter shall complete an *application* in a form prescribed by the *city manager*. The *city manager* may reject incomplete *application* forms. Such *application* forms shall require an *applicant* to identify the *right-of-way* to be used, the nature of the related *development* on the adjacent private property, and such other information as the *city manager* reasonably determines to be necessary, in relation to the specific project proposed. Such other information may include geotechnical studies, proof of liability insurance, performance bonding, and other measures designed to protect the public health, safety, and welfare. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.070).]



**12.35.065 Obligation – Revocation.**

This chapter authorizes the *city manager* to engage in discretionary acts and does not create any obligation on the part of the *City* to issue any such *right-of-way use permit*, nor does it create any right on the part of an *applicant* to initially obtain or subsequently retain any such *right-of-way permit*. Any such *permit* actually issued shall be revocable at any time after 90 days' written notice from the *city manager* to the *permit* holder. The *city manager's* revocation notice shall include a date by which the private use of the *right-of-way* must be discontinued and removed, all at the sole expense of the *permit* holder. Any private use of the *right-of-way* remaining after such date shall constitute a public nuisance and shall be abated as such. The cost of abatement, including the *City's* attorney fees, shall be borne by the *permit* holder. There shall be no administrative appeal from any such decision by the *city manager* to revoke any such *permit*. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.070 Conformance.**

Any requirement imposed by this chapter shall be in addition to any other requirement imposed by any other ordinance or other law regulating or controlling the use and development of private or public property. Such additional requirements include but are not limited to any necessary setback variances. A *permit* issued pursuant to this chapter may not authorize any use or development otherwise not allowed or permitted under any other ordinance. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.080).]

**12.35.075 Covenant.**

The *applicant* for a *right-of-way use permit, limited, access or encroachment*, may be required to record a covenant running with the land and for the benefit of the *City*, which contains:

A. A legal description of the lot or parcel benefiting from the *right-of-way use permit*;

B. If the *permit* is for access, a statement indicating the following:

1. Access to such parcel is across an unmaintained *right-of-way*; the *City* is not responsible for *maintenance* of the *unimproved right-of-way*; and responsibility for *maintenance* of the permitted *work* rests jointly and equitably upon all *permit* holders;
2. The *owner(s)* of the parcel will not oppose participation in a *City street* improvement district, if formation of such a district is deemed necessary by the *City*;
3. Subdivision of such parcel is prohibited without obtaining either plat or short plat approval; and
4. Acknowledgement that any improvement made within the access area must be removed by the *property owner* within 90 days at the request of the *city manager*;

C. If the *permit* is for an *encroachment*, a statement indicating the following:

1. *Maintenance* of the *encroachment* is the responsibility of the *property owner*; and
2. Acknowledgement that the *encroachment* must be removed by the *property owner* within 90 days at the request of the *city manager*;

D. A statement that any *right-of-way use permit* covenant is binding on the successors and assigns of the *owner(s)*;

E. The notarized signature(s) of acknowledgement of the *owner(s)* of such parcel; and

F. The *right-of-way use permit* may be revocable with 90 days' written notice and that removal of any *encroachments* and/or access improvements shall be at the *property owner's* expense. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.077 Permit – Interpretation.**

*Permits* issued pursuant to this chapter shall not be construed to convey any vested right or ownership interest in any *right-of-way*. Every *right-of-way use permit* shall state on its face that any *right-of-way* opened pursuant to this chapter shall be open to use by the general public except in those cases where specific conditions in a *right-of-way use permit* restrict the use of the *right-of-way* for safety reasons. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.080 Enforcement.**

The *city manager* is authorized to enforce the provisions of this chapter, and any rules and regulations promulgated thereunder, pursuant to Chapter 1.20 KMC. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.090).]

**12.35.090 Retroactivity.**

All *right-of-way use permits* issued by the *City* prior to the effective date of this chapter shall not be affected by the provisions of this chapter. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.100).]

**12.35.100 Effective date.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.110).]

**12.35.110 Insurance and Indemnification.** Insurance and indemnity provisions as set forth below shall be included in all *permits*. Insurance and indemnity requirements for all *permits* may be revised at the *city manager's* discretion on a case-by-case basis:

A. Insurance Required: The *permittee* shall procure and maintain insurance for *permits*. Insurance shall provide coverage against claims for injuries to persons or damage to property which may arise from or in connection with operations or activities performed by or on the *permittee's* behalf with the issuance of any *permit*.

B. The *permittee's* maintenance of insurance as required by the *permit* shall not be construed to limit the liability of the *permittee* to the coverage provided by such insurance, or otherwise limit the *City's* recourse to any remedy available at law or in equity.

C. The *permittee* shall obtain insurance of the types and coverage described below:

1. Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover liability arising from operations, products-completed operations, and stop-gap liability. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The *City* shall be named as an additional insured under the *permittee's* Commercial General Liability insurance policy using ISO Additional Insured-State or Political Subdivisions-Permits CG 20 12 or a substitute endorsement providing at least as broad coverage.

2. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

D. Minimum Amounts of Insurance: The *permittee* shall maintain the following insurance limits:

1. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products completed operations aggregate limit.

2. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

E. Other Insurance Provision: The *permittee's* Commercial General Liability insurance policy or policies are to contain or be endorsed to contain that they shall be primary insurance as respect to the *City*. Any insurance, self-insurance, or self-insured pool coverage maintained by the *City* shall be excess of the *permittee's* insurance and shall not contribute with it.

F. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. Verification of Coverage: The *permittee* shall furnish the *City* with original certificates and a copy of the amendatory endorsements, including the additional insured endorsement, evidencing the insurance requirements of the *permittee* before issuance of the *permit*.

H. Notice of Cancellation: The *permittee* shall provide the *City* with written notice of any policy cancellation, within two business days of their receipt of such notice.

I. Failure to Maintain Insurance: Failure on the part of the *permittee* to maintain the insurance as required shall constitute a material breach of the *permit*, upon which the *City* may, after giving five business days' notice to the *permittee* to correct the breach, immediately terminate the *permit* or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the *City* on demand.

J. City Full Availability of Permittee Limits: If the *permittee* maintains higher insurance limits than the minimums shown above, the *City* shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the *permittee*, irrespective of whether such limits maintained by the *permittee* are greater than those required by this permit or whether any certificate of insurance furnished to the *City* evidences limits of liability lower than those maintained by the *permittee*.

K. Indemnification: The *permittee* shall defend, indemnify, and hold the *City*, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney fees, arising out of or in connection with activities or operation performed by the *permittee* in the *right-of-way* and/or the performance of any *permit*, except for injuries and damages caused by the sole negligence of the *City*.

However, should a court of competent jurisdiction determine that RCW 4.24.115 applies, then the *permittee* agrees to defend, indemnify and hold the *City*, its officers, officials, employees and volunteers harmless to the maximum extent permitted thereunder. It is further specifically and expressly understood that the indemnification provided herein constitutes the *permittee's* waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of the permit.

**12.35.120 Performance guarantee required.**

Performance guarantees such as performance bonds or other security devices shall be required for all *right-of-way use permits*. Prior to final approval of all *right-of-way use permits*, the *department* shall determine the amount of the performance guarantee necessary to assure compliance with the approved construction plans, applicable State and local health and sanitation regulations, and *City* standards and to assure proper *restoration* of the *street* and the health and safety of the users of the *street*. Financial guarantees shall be consistent with the provisions of KMC Title 21. The *city manager* may waive the performance guarantee for some activities on a case-by-case basis.

## Chapter 12.40

### PERMIT SYSTEM FOR USE OF CITY REAL PROPERTY

Sections:

- 12.40.010 *Repealed.*
- 12.40.020 Permit requirement.
- 12.40.040 Permit issuance.
- 12.40.050 Liability.
- 12.40.060 Additional requirements.
- 12.40.080 Interpretation.
- 12.40.090 Enforcement.
- 12.40.100 *Repealed.*
- 12.40.110 Permit – Fees.

#### 12.40.010 Definitions.

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.010).]

#### 12.40.020 Permit requirement.

A. *Special use permits* shall be required for any use of *City* owned real property, except uses regulated pursuant to Chapter 12.55 KMC, Chapter 12.35 KMC relating to *right-of-way use permits*, or special event permits approved and permitted in accordance with Chapter 8.40 KMC. Examples of special uses include, but are not limited to, storage of materials not associated with a special event, *utility* services, temporary construction or repair/maintenance activities associated with adjacent properties, or temporary access.

B. Upon receipt of an *application* for a special use permit, the *city manager* shall determine whether the proposed use is upon *City*-owned real property.

C. The *department* shall evaluate the feasibility of the proposed use, its impact on other uses of the *City property* and its impact on public health and safety. Based on this evaluation, the *department* shall recommend whether the permit should be issued.

D. In all cases, the *City* shall be responsible for assuring that any *application* meets the requirements of the critical areas code set out in Chapter 18.55 KMC and the administrative rules promulgated thereunder before the permit is issued. [Ord. 12-0335 § 5; Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.020).]

#### 12.40.040 Permit issuance.

A. Upon filing of a complete *application*, approval of the *application*, payment of the administrative fee and posting of any required bond, the *city manager* may issue a permit authorizing the designated use of *City* real property by the *permittee*.

B. The *permit* may require site *restoration* to certain standards in view of the nature and duration of the special use. In addition, conditions may be set to assure compliance with *City* policies, ordinances and other applicable laws and regulations.

C. The permit *applicant* may be required to post a performance bond in an amount which will:

1. Guarantee the use will comply with standards and conditions prescribed by the *City*; and
2. Guarantee *restoration* of the *City property* to a condition consistent with the *special use permit* and the *City's* own use of its property. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.030).]

D. *Special use permits* are temporary in nature and shall expire 6 months from date of issuance.

E. The *applicant* may apply for an extension to the *special use permit*. Permit extensions shall be submitted within 21 calendar days of *permit* expiration. Upon written *application* for an extension, payment of any fees, and being found to comply with the conditions and requirements of the original *permit*, the *permit* may be extended. *Permits* shall be limited to one 6-month extension only. Additional *permit* extensions are permitted for special circumstances pursuant to Section 12.35.040.F3.

**12.40.050 Liability.**

The permit *applicant* shall be solely responsible for the adequate operation and *maintenance* of any *work* constructed by the *permittee* and shall assume liability for all injuries to persons or property resulting from activities pursuant to the *special use permit*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.040).]

**12.40.060 Additional requirements.**

A. Survey. When considered necessary by the *city manager* to adequately determine the limits of the *City property*, improvements on *City property*, and/or area of use, the permit *applicant* shall cause the *City property* to be surveyed by a Washington State licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act. The cost of such survey shall be paid by the permit *applicant*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.050).]

**12.40.080 Interpretation.**

Permits issued pursuant to this chapter shall not be construed to convey any vested right of ownership interest in any *City property*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.070).]

**12.40.090 Enforcement.**

The *city manager* is authorized to enforce the provisions of this chapter, pursuant to Chapter 1.20 KMC. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.080).]

**12.40.100 Severability.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.090).]

**12.40.110 Permit – Fees.**

A. The *permittee* shall pay the fees at the rates imposed by the city council by resolution.

B. The fees shall be collected in accordance with administrative procedures developed by the *department*.

## Chapter 12.45

### COMPLETE STREETS POLICY

Sections:

- 12.45.010 Vision.
- 12.45.020 Policy.
- 12.45.030 Design guidance.
- 12.45.040 Exceptions.
- 12.45.050 Implementation.
- 12.45.060 Performance measures.

#### 12.45.010 Vision.

The *City's* vision is to provide a safe, balanced, and efficient multi-modal transportation system that serves local and regional circulation needs and accommodates all users. To meet this vision, the *City* shall provide a transportation system that allows users of all ages, abilities and financial resources to safely, effectively, and efficiently use the public *right-of-way* to drive, access public transit, bicycle, walk or use any other legal mode of travel. The *City* recognizes the public health and environmental benefits of encouraging active transportation modes through a safe, welcoming, connected network of modal choices. The *City's* Resolution No. 14-235 adopting target zero as a city goal is a core component of this vision, seeking to have zero pedestrian or cyclist deaths or serious injuries as the result of a collision with a motorized vehicle by the year 2025. [Ord. 16-0427 § 1.]

#### 12.45.020 Policy.

The term “complete streets” is a guiding principle for the consideration of all modes of travel within the public *right-of-way*. This chapter constitutes the *City's* “complete streets” policy. Through the adoption of a layered network approach to complete streets (as described in the Transportation Element of the Comprehensive Plan) , the *City* recognizes that it can be a challenge for a single roadway to meet the demands of all modes at one time. Safety is a primary concern for the *City*, and the target zero resolution guides the pursuit of increased safety for pedestrians and cyclists, which can require the separation of some uses on certain *roads*. In addition to safety, pedestrian and bicycle comfort is of high importance and policies and plans shall consider comfort for pedestrians and bicyclists where practical. A *City-wide* network (as described in the comprehensive plan transportation element) which accommodates users of all modes of transportation (including air/seaplane and freight) and users of all abilities on appropriate networks of *roads*, paths and trails balances the principles of complete streets with the realities of promoting a transportation system that is fiscally, economically and environmentally sustainable within existing and future constraints.

Using a toolbox of diverse techniques, the *City* will plan, design, construct, operate and maintain a transportation network that meets these goals. Recently developed projects and those in future years will incorporate traditional and modern tools to create a safe, effective and efficient transportation network, such as, but not limited to:

| Traditional                      | Modern                                 |
|----------------------------------|--|
| <i>Sidewalks</i>                 | Shared use paths                       |
| Paved shoulders                  | Bike lanes (buffered) and sharrows     |
| Street trees and planting strips | Narrow vehicle lanes                   |
| <i>Curbs</i> with ramps          | Transit priority lanes                 |
| Crosswalks                       | Enhanced pavement markings and symbols |
| Pedestrian signals               | Countdown and lead pedestrian signals  |
| Signage                          | Bulb-outs                              |

| Traditional                  | Modern  |
|------------------------------|---|
| Transit stops and facilities | Rectangular rapid-flash beacon enhanced crosswalks        |
| Speed bumps                  | Bike parking  |
| Raised medians               | Street furniture and temporary installations              |
| Street lighting              | Textured and colored pavements                            |
|                              | Focused LED street lighting and pedestrian-level lighting |
|                              | Traffic circles and roundabouts                           |
|                              | Chicanes  |

The *City* will emphasize the layered network approach to complete streets in the review of private *development* plans, transportation system improvements, and the *City's* six-year transportation improvement plan (TIP). This approach shall include new construction, reconstruction, and rehabilitation/overlay projects, except as noted in KMC 12.45.040, Exceptions. A context-sensitive approach to each project will consider neighborhood character, underserved/underutilized modal choices, and school transportation routes (including busing, walking and vehicle circulation around schools), in addition to safety and fiscal considerations. Projects must meet the requirements of the current system and the needs of the updated future network (as described in the Comprehensive Plan), specifically as it applies to nonmotorized modal choices. Consideration will be given to accommodation of future transportation technologies, such as driverless cars, and the impact these may have on other modes of travel in the layered network. [Ord. 16-0427 § 2.]

#### **12.45.030 Design guidance.**

The *department* maintains design criteria, standards and guidelines based upon recognized best practices in *street* design, construction and operation. These criteria, standards and guidelines include, but are not limited to, the latest editions of the American Association of State Highway Transportation Offices (AASHTO) policies for vehicular and bicycle facilities, National Association of City Transportation Officials (NACTO) Urban Bikeway and Street Design Guides, publications and recommended practices from the Institute of Transportation Engineers (ITE), the *WSDOT* Design Manual, the Manual on Uniform Traffic Control Devices (MUTCD), and the Public Rights-of-Way Accessibility Guidelines (PROWAG).

The *City* has adopted *Road Standards* and a street planning toolkit (Transportation Element), which include a number of complete streets principles, to guide all public and private transportation projects in the *City*. These documents emphasize consideration of multiple modes of travel, especially pedestrian and bicyclists, through the use of a number of the techniques described in KMC 12.45.020, Policy. The *Road Standards* include provisions for flexibility and the adoption of new techniques and tools with the approval of the *city manager*. New techniques and future developments in design which enhance the safety of all transportation users may be incorporated into future versions of the *Road Standards*. [Ord. 16-0427 § 3.]

#### **12.45.040 Exceptions.**

Exceptions to the policies of this chapter must be approved by the *city manager*. The circumstances under which the *city manager* may consider exceptions to a complete streets approach to enhancement of the layered network are as follows:

A. *City projects* may exclude those elements of the policies of this chapter that would require the accommodation of *road* uses that are prohibited by law, grants, or other agencies, or that would otherwise pose a public safety risk unacceptable to the *City*;

B. *Maintenance* activities, such as mowing, snowplowing, sweeping, spot repair, joint or crack sealing, surface treatments, minor pavement marking changes, or pothole filling, do not require that elements of the policies of this chapter be applied beyond the scope of that *maintenance* activity;



C. *City projects* may exclude elements of the policies of this chapter when the accommodation of a specific use or mode is expected to:

1. Require more space than is physically available (topographic or *right-of-way*, where acquisition of additional *right-of-way* isn't possible or would significantly increase project costs), or
2. Be located where both current and future demand is demonstrated as being absent, including a lack of current or planned transit routes, or
3. Significantly increase project costs and equivalent alternatives for those travel modes that are documented to exist within close proximity, or
4. Be incompatible with the layered network (comprehensive plan transportation element), or
5. Have an adverse impact on disadvantaged communities, or
6. Have adverse impacts on environmental resources such as streams, wetlands, ditches, floodplains or historic structures or sites above and beyond the impacts of currently existing infrastructure. [Ord. 16-0427 § 4.]

#### **12.45.050 Implementation.**

The *City* recognizes that many other agencies have a direct or regional interest in the *City's* transportation network. Because transportation frequently crosses city borders, it is crucial for an effective network to ensure compatibility for all modes across jurisdictional lines with neighboring cities. The *City* fosters partnerships with adjacent cities, local transit providers, King and Snohomish Counties, *WSDOT* and Northshore School District to implement complete streets principles in *city projects* involving these entities. *WSDOT* maintains a regionally significant *highway* passing through the *City* and shares in the *City's* dedication to complete streets and a layered network approach.

The *City* has developed and continues to update a six-year TIP based on the Comprehensive Plan. The comprehensive plan identifies both pedestrian and bicycle priority networks, in addition to vehicular transportation network improvements. The TIP and Comprehensive Plan shall guide the development of *city projects*. *City projects* will be constructed using a combination of *City* funds and/or grant funding. The *City* will stay informed of, and will apply for, grant funding programs, especially those with a focus on complete streets and nonmotorized travel improvements. Funding agency partnerships, such as those mentioned above, are key to implementation of complete streets projects within the layered network. Low-cost *city projects* which can be achieved within existing pavement widths using temporary installations, signing and striping are continually identified and implemented by the *City*. [Ord. 16-0427 § 5.]

#### **12.45.060 Performance measures.**

The *city manager* shall report annually to the city council on *city projects* that were completed in the last year, that are planned for the coming year, and that further the vision of this complete streets ordinance. The report shall identify yearly progress in advancing the lineal feet and connectivity of the bicycle and pedestrian network. [Ord. 16-0427 § 6.]



## Chapter 12.50

### ROAD STANDARDS

Sections:

- 12.50.010 Adoption.
- 12.50.020 Terms.
- 12.50.030 Applicability.
- 12.50.040 Developments.
- 12.50.050 References.
- 12.50.060 Variances.
- 12.50.070 Appeals from decisions on variances.
- 12.50.150 Interpretation.
- 12.50.160 Penalties.
- 12.50.170 Severability.

#### **12.50.010 Adoption.**

A. The City of Kenmore 2021 Road Standards, along with all companion documents referenced in Section 1.03 of the *Road Standards*\*, are approved, adopted and incorporated herein as the City of Kenmore standards for *road* design and construction.

B. Consistent with the council's direction and intent in adopting the *Road Standards*, the *city engineer* is hereby authorized to develop public rules and make administrative changes to the *Road Standards* to better implement the *Road Standards* and as needed to stay current with changing design, environmental, and construction technology and methods. The following are examples of administrative changes:

1. De minimus changes
2. Revisions to the documents in the appendices
3. Revisions to comply with the Kenmore Municipal Code
4. Revisions related to changes to the referenced companion documents
5. Revisions to comply with state and federal law

[Ord. 21-0531 § 1 (Att. A); Ord. 16-0428 § 2 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.010).]

\*Code reviser's note: The *Road Standards* and the companion documents are on file in the office of the city clerk.

#### **12.50.020 Terms.**

Terms are defined in Section 1.01 of the *Road Standards*. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.020).]

#### **12.50.030 Applicability.**

A. The *Road Standards* shall apply to all *work* relating to::

1. Privately owned roads,
2. The *right-of-way* for public and private *development*, and
3. *City projects*.

B. The *Road Standards* shall apply during emergency replacement of existing *facilities* .

C. Design detail, construction workmanship, and materials shall be in accordance with the *Road Standards* and the latest edition of the companion documents referenced in Section 1.03 of the *Road Standards*. Design and construction shall meet the applicable standards, policies, and codes, including the *Road Standards*, this code, the *City* comprehensive or master plans, as well as project specific *City*-approved geotechnical reports, traffic impact studies, drainage reports, and/or other studies, as determined by the *city engineer*.

D. *City maintenance* activities are exempted from the *Road Standards* at the discretion of the *city engineer*. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.030).]

#### **12.50.040 Developments.**

Any land *development* which is required by operation of any *City* ordinance or adopted standard to improve *roads* within, abutting, or serving the *development* shall do so in accordance with the *Road Standards*. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.040).]

#### **12.50.050 References.**

The *Road Standards* implement and are intended to be consistent with the references listed in Section 1.03 of the *Road Standards*. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.050).]

#### **12.50.060 Variances.**

A. A variance is required for any design or construction deviation from the *Road Standards* and shall be a Type 1 decision per Chapter 19.25 KMC.

B. A variance from the *Road Standards* may be granted by the *city engineer* upon evidence that the variance is in the public interest and that the requirements for safety, function, fire protection, transit needs, appearance and maintainability are fully met. The need for a variance is not assumed by the *City* to be evidence of an impractical or undesirable standard, and variances that meet these requirements are encouraged to keep the *City* at the forefront of innovative design and construction.

C. Variance requests for subdivisions shall be proposed at preliminary plat stage and prior to any public hearing. All variance requests must be reviewed by the *city engineer* prior to approval of the engineering plans for construction. Variances may be approved during construction at the *city engineer's* discretion. Variances from the *Road Standards* which do not meet the International Fire Code, as adopted by the *City*, will require approval by the *City's* fire marshal.

D. Applications for Road Variances.

1. *Applications* for proposed variances shall be written, including graphics, studies and drawings as needed to support the request, and shall include a specific description of the proposed alternative along with supporting documentation. Documentation may include, but is not limited to, a record of successful use by other agencies, or evidence of meeting criteria for quality/safety such as AASHTO and WSDOT standards.
2. The *applicant* shall indicate those sections of the *Road Standards* or this Code which are proposed for deviation.
3. Variance requests shall be on forms prescribed by the *City* and shall be accompanied by the variance review fee imposed by the city council by resolution.

E. Variances to the *Road Standards* may also be granted by the city council through a development agreement per Chapter 18.110 KMC.

F. *City projects* need not file for a formal variance request provided that all deviations from the *Road Standards* are documented and approved by the *city engineer*.

G. Road Variance Fee: The *permittee* shall pay the fees at the rates imposed by the city council by resolution. The fees shall be collected in accordance with administrative procedures developed by the *department*. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.060).]

**12.50.070 Appeals from decisions on variances.**

The *city engineer* shall hear administrative appeals as set forth in Section 1.04 of the *Road Standards*. The decision on appeal shall be final. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.062).]

**12.50.150 Interpretation.**

The *city engineer* is authorized to interpret the *Road Standards*, provide guidelines for their implementation, promulgate rules, and to resolve conflicts or inconsistencies that may arise in their interpretation or application. Any interpretation made by the *city engineer* shall be final. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 00-0096 § 8.]

**12.50.160 Penalties.**

Failure to comply with the *Road Standards* may result in denial of plan or permit approval, revocation of prior approvals, legal action for forfeiture of financial guarantee, code enforcement, and/or other penalties as provided by law. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.070).]

**12.50.170 Severability.**

If any part of the *Road Standards* is found invalid, all other parts shall remain in effect. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.080).]

## Chapter 12.55

### UTILITIES ON CITY RIGHT-OF-WAY

#### Sections:

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| 12.55.140 | <i>Repealed.</i>                              |
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| 12.55.150 | Utility locates.                              |
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| 12.55.160 | Adjustments and relocations.                  |
| 12.55.165 | Facility security and safety.                 |
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#### **12.55.005 General Provisions**

A. The requirements of this chapter shall apply to the installation, *replacement*, adjustment, relocation, repair, and *maintenance* of all above and below ground *facilities* within the *right-of-way*. The requirements of this chapter shall also apply to all traffic control devices placed within the *right-of-way* by *utilities* in conjunction with any *work*.

B. All *utilities* with *facilities* within the *right-of-way*, shall comply with the requirements of this chapter and with all applicable federal, state, and local laws, codes, rules and regulations.

C. If a direct conflict exists between the requirements of this chapter and the requirements established in an effective *franchise* and/or *utility* permit, then the terms of the *utility* permit shall control first followed by the *franchise* agreement and lastly by this chapter. The city manager shall make any final decisions on whether a conflict exists.

D. Compliance with this chapter does not relieve the *utility* or its representatives from the responsibility of meeting other applicable codes, standards or regulations and does not preclude the need for obtaining any pertinent federal, state, or other local permits. Identification of and compliance with other required permits and applicable regulations is the sole responsibility of the *utility* or its representative.

E. It shall be the responsibility of any *utility* installing, relocating, adjusting, repairing, maintaining, or contracting for any of those activities to comply with the requirements of this chapter. The *utility* shall be responsible for the design, construction, operation, and *maintenance* of their *facilities* and for public safety during the installation, operation, and *maintenance* of their *facilities*. This responsibility shall include, in addition to ensuring the integrity

of the proposed *facility*, provisions for public safety during the course of construction, *maintenance*, and operation for the life of the *facility*.

F. All *facility* design, construction, repair, *maintenance*, relocations, and removals shall comply with the most recently adopted *Road Standards*, the municipal code, and other codes and regulation applicable to the type of *facility*. The methods of installation and materials used shall conform to Federal, State, *City* and industry codes and standards.

G. Definitions:

1. “Abandonment” means action by a *utility* to cease operation and/or *maintenance* of a *facility* in the *right-of-way*.
2. “Appurtenance” means equipment and/or accessories which are a necessary part of an operating system or subsystem.
3. “Construction” means the construction, *maintenance*, alteration, *replacement*, or repair of any *facility*.
4. “Job start” means the date and time the *utility* begins *work* within the *right-of-way* on an approved permit.
5. “Relocation” means removal of an existing *facility* and installation of that *facility* in an alternate location.
6. “Replacement” means removal of an existing element of a system or subsystem with a like or improved element of the system or subsystem in the same location in the *right-of-way*.
7. “Third-party utility” means a *utility* that has attached its *facility* to another facility owned by a different *utility*.

**12.55.010 Purpose.**

The purpose of this chapter is to regulate *facilities* within the public *right-of-way* and the granting of *right-of-way utility permits*, and to ensure that *utility* construction *work* undertaken pursuant to such permits is consistent with the *applicant’s franchise* with the *City* (if applicable), the *Road Standards*, , the critical areas code, the *City* comprehensive plan, sound engineering and design standards, health and sanitation regulations, and *City* safety standards. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.010).]

**12.55.020 Utility permit – Required.**

A. All *construction* performed by *utilities* or by their representatives within the *right-of-way* shall be required to obtain a *right-of-way utility permit* issued by the *City*. *Construction* undertaken as a direct result of a *city project* and where the *utility* has entered into a contract agreement with the *City* for said *construction* shall be exempt from this requirement.

B. *Right-of-way utility permits* for the construction of *facilities* within the *right-or-way* shall be applied for and given in the name of the *utility*, or the *utility’s* representative if authorized by the *City*. The *utility* shall be responsible for all *work* done under the *permit*, including but not limited to, paving, patching, grading, and any other necessary repair or *restoration* to the *right-of-way* and any impacted private property. The *utility* shall be responsible for all *work* performed by the *utility*, its *contractors* or by other third parties.

C. Any *work* performed on private property or within a critical area may require additional *permits*, reviews, and/or approvals by the *City* or other agencies. *Utilities* shall be responsible for determining and obtaining all required permits/approvals prior to starting *work*.

D. An annual permit for all *facility maintenance* activities within the *right-of-way* which do not include ground disturbances may be approved for *utilities* with a *franchise* in lieu of a *right-of-way utility permit* to maintain each *facility*.

1. If an annual permit is not on file, *utilities* will be required to submit for a *right-of-way utility permit* for each and all *maintenance* activities within the *right-of-way* for every *facility*.
2. Failure to obtain a permit shall be subject to a fine as set forth in KMC 12.55.130 for each instance *maintenance* activities are performed in the *right-of-way* without a permit.

3. The *city manager* shall have the discretion to determine what activities qualify under an annual permit and has the authority to adopt rules identifying the activities and criteria for said permit.

**12.55.030 Utility permit – Application.**

A. *Applications* for all *right-of-way utility permits* shall be submitted, in writing, to the *City* on forms provided by the *department*. The *application* shall contain the information deemed necessary by the *department*, including, but not limited to, plans and specifications.

B. *Applications* for which no *permit* is issued within 12 months following the date of *application* submittal shall expire, and the plans and other data submitted for permit review may be returned to the *applicant* or destroyed in accordance with State law.

C. *Applications* may be canceled for inactivity, if an *applicant* fails to respond to the *department's* written request for revisions, corrections, actions or additional information within 90 days of the date of request. The *city manager* may extend the response period beyond 90 days if within the original 90-day time period the *applicant* provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information needed by the *department*.

D. The *city manager* may extend the life of an *application* for any of the following reasons:

1. Compliance with the State Environmental Policy Act is in progress; or
2. Any other *City* review is in progress; provided, that the *applicant* has submitted a complete response to *City* requests, or the *city manager* determines that unique or unusual circumstances exist that warrant additional time for such response, and the *city manager* determines that the review is proceeding in a timely manner toward final *City* decision; or
3. Litigation against the *City* or *applicant* is in progress, the outcome of which may affect the validity, or the provisions of any permit issued pursuant to such application.
4. At the sole discretion of the *city manager* when there have been newly adopted codes, fees, ordinances, standards, or laws which directly affect the application. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.030).]

**12.55.040 Utility permit –Fees.**

A. Each *application* requires fees, imposed by the city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application* and for other functions necessary for the approval and use of the *permit*. These fees shall be equal to the administrative costs of approving the *permit*, including but not limited to preparing the *permit*, review, processing, coordinating review with other departments, preparing environmental documents, inspection, etc. Additional fees shall be imposed as noted below. All fees shall be paid as required in accordance with the most current fee schedule established by the city council. Fees shall be collected in accordance with the administrative procedures developed by the *department*.

B. *Application* fee: This fee will be billed at the rate in effect at the time the application is received and covers all administrative costs necessary to receive, process, coordinate, and invoice for each *application* received. The fee shall cover up to 3 submittals (the original submittal and 2 revisions). Subsequent revisions may be subject to a new *application* fee in effect at the time the revision is received.

C. Review fee: This fee will be billed at the hourly rate in effect at the time of the review and covers all costs necessary in the review of a *permit*.

D. Inspection fee: This fee will be billed at the hourly rate in effect at the time of the inspection and covers all costs necessary in the inspection and approval of *work* for all approved *applications*.

E. Accelerated job start fee: At the request of the *utility*, a *job start* request with less than the required notice may be approved. If approved, a fee shall be charged for each request and each permit. Any *work* performed after submission of a *job start* request but before written confirmation by the *City* shall be subject to an accelerated job



start fee. Any *work* performed without written confirmation of a *job start* on an approved *permit* shall be subject to a job start fee.

F. After hours work fee: *Work* on an approved permit performed within the *right-of-way* outside of regular work hours shall be subject to a fee of one and a half times the inspection fee. Regular work hours are 7:00am to 4:00pm, Monday thru Friday. *Work* performed on an approved permit on Saturday or Sunday or between the hours of 4:00pm to 7:00am Monday thru Friday will be subject to a 4-hour minimum charge. With the exception of an emergency, no *work* will be allowed on *City* observed holidays unless approved by the *city manager*.

H: Permit extension fee: Each extension of an active *permit* approved by the *City*.

[Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.040).]

#### **12.55.050 Inspection fee.**

*Repealed* [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.045).]

#### **12.55.060 Utility permit – Application – Review - Form.**

A. The *department* shall review *right-of-way utility permit applications* and shall determine whether the proposed *work* is consistent with the *applicant's franchise* with the *City* (if applicable), the KMC, and the *Road Standards*.

B. The *department* shall review and evaluate *applications* in respect to the hazard and risk of the proposed construction, location of the proposed construction in relation to other *facilities* in the *right-of-way* and the adequacy of the engineering and design of the proposed *facility* as it relates to the safety and operation of the *right-of-way*.

C. The *utility* shall submit traffic control plans as needed for review. The *department* shall review the plans for compliance with the most recent Manual on Uniform Traffic Control Devices, site safety, the *Road Standards* and applicability to existing site conditions.

D. The *department* shall determine if the *application* meets the requirements identified in this section. If the *application* meets the requirements the *department* may issue the utility permit, subject to conditions consistent with KMC 12.55.060.E, and if the *work* does not conflict with a *city project* as determined by the *city manager*. If the *application* is not consistent with the requirements identified in this section, the *department* may deny the utility permit.

E. The *right-of-way utility permit* granted shall be in a form approved by and be made subject to all terms and conditions imposed by the *department* and shall also include conditions of approval consistent with the requirements of Chapter 12.05 KMC, General Provisions. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.050).]

#### **12.55.065 Utility permit – Expiration/Extension.**

A. *Right-of-way utility permits* shall expire 6 months from the date of issuance. Permits may be extended an additional 6 months from the date of expiration at the discretion of the *city manager* as long as no changes have been made to the originally approved plans and no new development standards have been adopted. Permits that have been expired longer than 6 months will require a new permit application, review, and associated fees. At the *city manager's* discretion, permits may be extended beyond the 6-month extension period if one of the following circumstances applies:

1. Compliance with the State Environmental Policy Act is in progress;
2. Any other *City* review is in progress; provided, that the *applicant* has submitted a complete response to *City* requests, or the *city manager* determines that unique or unusual circumstances exist that warrant additional time for such response, and the *city manager* determines that the review is proceeding in a timely manner toward final *City* decision;
3. Litigation against the *City* or *applicant* is in progress, the outcome of which may affect the validity, or the provisions of any permit issued pursuant to such application;

4. At the sole discretion of the *city manager* when there have been newly adopted codes, fees, ordinances, standards, or laws which directly affect the application; or

5. At the sole discretion of the *city manager* that an extension would be in the interest of the public's welfare.

B. Annual *maintenance* permits shall expire at midnight on the 31<sup>st</sup> day of December of the issuing year.

C. 30 days after the expiration of a *permit* (or extensions as applicable), *work* that is not completed as required by the *permit* will be considered delinquent and *restoration* of the *right-of-way* may be completed by the *City*. Any cost associated with completing the permitted *work* shall be charged to and paid by the *applicant*. If no *work* has been performed under the *permit*, the *permit* shall be closed and the *applicant* will need to submit a new application.

#### **12.55.070 Emergencies .**

*Work* may be performed before a *permit* is issued in emergency situations. In these situations, the *City* will require the *utility* to submit for a *right-of-way utility permit* within 1 business day after *work* is performed or in the case of an extended emergency situation, as soon thereafter as practical. Emergency situations occur when:

A. The *utility* has determined, with *City* concurrence, that emergency work is necessary to address a public health or safety hazard;

B. The *city manager* has determined that the proposed *work* is necessary to address actual or imminent damage to the *right-of-way*, *facilities*, *City property*, or to address health or safety hazards to the public; or

C. When an outage has occurred due to forces outside of the *utility's* control. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.055).]

#### **12.55.080 Policy on accommodation of utilities.**

Standards of Installation: The *Road Standards* establishes the *City* standards for *facility* location, installation, *maintenance*, and *relocations* with the *right-of-way*. For installations on bridges, *facilities* shall be located so as to not impact existing operations above and below the bridge. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.060).]

#### **12.55.090 Coordination of right-of-way construction.**

A. The *applicant*, at the time of submitting an *application* for a *right-of-way utility permit*, shall notify all other public and private *utility* entities known to be using or proposing to use the same *right-of-way* of the *applicant's* proposed construction and the proposed timing of such construction. Any such entity so notified may, within seven days of such notification, request a delay in the commencement of such proposed construction for the purpose of coordinating other *right-of-way* construction with that proposed by the *applicant*.

B. The *City* shall coordinate the approval of *right-of-way utility permits* with *city projects* and may delay the commencement date for the *applicant's* construction for 180 days or less, except in the case of emergencies, if it finds that such delay will reduce the inconvenience to *road* users from construction activities, if it finds that such delay will not create undue economic hardship on the *applicant*, or if it finds that such delay will allow the *City* to install conduit for future *facility* installations.

C. The *utility* shall coordinate with *WSDOT* on all *utility work* within the SR 522 *right-of-way* or if the work impacts a traffic signal within one *City* block of SR 522.

D. At the *city manager's* discretion, the *utility* shall coordinate with Northshore School District on all *work* that will occur along any identified school walk routes, school bus routes, or student pick up/drop off locations.

E. The *utility* shall coordinate with King County Metro and Sound Transit on all *right-of-way utility permits* issued along bus routes.



F. The *City* shall review all *right-of-way utility permit applications* for underground projects 1,000 feet or longer to determine, within 15 business days, whether the installation of conduit may be needed for the future installation of fiber optic cable to connect *City* or other public *facilities*.

G. Failure to coordinate with the respective agencies identified in this Section may result in a suspension or revocation of the approved permit. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.070).]

**12.55.100 Performance guarantee required.**

Performance guarantees may be required for *utilities* for *work* in the *right-of-way*, at the discretion of the *city manager*. Prior to final approval of all *right-of-way utility permits*, the *department* shall determine the amount of the performance guarantee necessary to assure compliance with the approved construction plans, applicable State and local health and sanitation regulations, *City* standards, and to assure proper *restoration* of the *right-of-way* and the health and safety of the users of the *right-of-way*. If required, the *applicant* shall submit the financial guarantee consistent with the provisions of KMC Title 21. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.080).]

**12.55.110 Construction permit – Form.**

*Repealed*

**12.55.115 Insurance and Indemnification.**

*Utilities* without a *franchise* with the *City* shall be required to provide insurance and indemnification to the *City*. Insurance and indemnification requirements shall be consistent with the requirements of KMC 12.35.110. Coverage term of insurance shall be for a minimum of 6 months and shall cover all *work* performed within that coverage period.

**12.55.120 Job start notification.**

The *permittee* shall give written notice of the date of commencement of construction to the *City* per the *department* administrative policies. Additional notifications shall be given to the district fire marshal and Northshore Utility District for *work* that may interrupt water supply and to Northshore School District where *work* may impact school district activities. Failure to give such notice is grounds for the revocation or suspension of the permit. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.100).]

**12.55.130 Enforcement.**

The *city manager* is authorized to enforce the provisions of this chapter, the ordinances codified in it, and any rules and regulations adopted hereunder pursuant to the following:

- A. Activities performed in the *right-of-way* without a *permit* shall be fined \$1,000 per day per each occurrence;
- B. Lane/road closures that occur outside of the permitted closure hours or without prior approval from the *city manager* shall be fined \$500 per day, per permit for each day a violation occurs. Repeat occurrences may result in revocation of the permit.
- C. Where a *relocation* is required for a *city project* per KMC 12.55.160, daily penalties shall be determined by the *City* and shall include the daily financial impacts to the *city project* including but not limited to the total daily impact cost to the *contractor*, daily engineering and daily inspection services needed as determined by the *City*, and *City* staff cost (including overhead) as a result of a *utility's* failure to meet the *City's relocation* requirements.
- D. *Facility relocation* required for a *utility driven relocation* shall be fined \$500 per day per each individual location as a result of not relocating as required by this chapter. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.110).]

**12.55.135 Productivity and customer service report.**

*Repealed by Ord. 11-0330. [Ord. 03-0180 §§ 1, 2 (KCC 14.44.115).]*

**12.55.140 Severability.**

*Repealed by Ord. 11-0330. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.120).]*

**12.55.145 Working hours and road closures.**

Working hours shall comply with Chapter 8.05 KMC unless otherwise approved by the *city manager*. Road closures, partial or otherwise, shall not be permitted unless otherwise approved by the *city manager*.

**12.55.150 Utility locates.**

All *utilities* shall be responsible, at no expense to the *City*, for locating their own *facilities* whether above ground or underground and whether active or abandoned. All underground *facilities* shall be located both horizontally and vertically in relation to the existing finished road elevation. Vertical locates shall be performed within 60 calendar days of notice by the *City* unless otherwise approved by the *city manager*. If vertical locates are not performed by the time prescribed by the *City*, the *City* shall assume the *facilities* are in conflict and will require *relocation* per KMC 12.55.160.

**12.55.155 Aesthetic and scenic considerations.**

A. *Facility* installations shall be designed and constructed to minimize the adverse effect on existing *right-of-way*, manmade or natural amenities. Special efforts shall be taken to minimize any potential negative impact on areas of scenic beauty such as viewpoints, recreation areas, public parks, and historic sites.

B. Overhead *facilities* shall be permitted in areas of scenic beauty only when underground locations are not technically feasible, unreasonably costly, or less desirable from the standpoint of aesthetics.

C. Overhead *facilities* shall take into consideration existing trees and future growth. *Facilities* shall be located to avoid or minimize branch trimming, root pruning, or other damage to existing trees.

D. Areas of scenic beauty shall be determined by the *city manager*.

**12.55.160 Adjustments and relocations.**

A. *Utilities* shall be responsible, at no expense to the *City*, to repair, remove or relocate all existing *facilities* within the *right-of-way* if such installation, repair, removal, or *relocation* is required by the *City* for any purpose, including, but not limited to, conflicts with a *city project*, *City maintenance* and operation, public safety, scenic beauty, *utility*- driven *relocations* or replacements.

B. *Utility*-driven relocations: In the event of a pole *relocation* or replacement, all *utilities* using the original pole shall transfer to the new pole within 30 calendar days of the notification to relocate. The *utility* pole owner shall be responsible for the coordination of and providing notice to any *third-party utilities* for the transfer of their respective *facilities*. The *City* may provide the 30-day relocation notice at the *city manager's* discretion. Failure to relocate *facilities* as required by this section shall be enforced by the *department* by issuance of daily fines per KMC 12.55.130.D.

C. *Facilities* shall be relocated as directed by the *City* that conflict with *city projects*, as determined by the *city engineer*. The *utility* shall relocate its *facilities* within 120 calendar days from written notice by the *City* to relocate. *Facilities* shall be relocated in the time frame required under this section. The 120 days shall not be extended for any reason unless provided for in any written agreement. Failure to relocate *facilities* as required by this section shall be enforced by the *department* by issuance of daily fines per KMC 12.55.130.C.

**12.55.165 Facility security and safety.**

Notwithstanding reinforcement or protection otherwise provided, a *utility* shall be responsible for the security and safety of any *facility* within the *right-of-way*. Where there are construction hazards or where heavy construction equipment will be used, the *utility* shall provide adequate temporary protection as determined by the *department*. Construction of *facilities* shall be performed in such a manner as to provide a safe passage within the *right-of-way*. In restoring the *right-of-way*, the *utility* shall give due consideration to the protection of previously placed *facilities* in the *right-of-way* without impacting the safe and efficient operation of the *right-of-way*.

**12.55.170 Abandonment.**

In general, all abandoned *facilities* shall be removed from the *right-of-way* once decommissioned. All abandoned *facilities* shall be removed within 30 calendar days of *abandonment*. The *city manager* may approve a request to

abandon *facilities* in place if deemed to be safe and consistent with the *City's* future use of the *right-of-way*. The *utility* shall submit a plan to the *City* to ensure the safe decommissioning of the *facility*. The *department* may hire consultants to review the submitted plan and the *utility* shall pay all costs of said review. All *facilities* abandoned in-place shall remain the property of the *utility* and shall be maintained and/or removed at the request of the *City*. If, at any time, the *City* requires removal of the abandoned *facility*, the *utility* shall do so in accordance with KMC 12.55.160.

**12.55.175 Right-of-way vacations.**

If at any time the *City*, in accordance with Chapter 12.95 KMC, vacates the *right-of-way* or any portion therein, the *City* will not be liable for any damages or loss to a *utility* by reason of such vacation. When a *right-of-way* is vacated, it ceases to be a *City right-of-way* and the *utility's* authority from the *City* to have its *facilities* within such *right-of-way* is extinguished. The *City* will use its best efforts to notify any *utility* that may have *facilities* within the *right-of-way* to be vacated to allow the *utility* an opportunity to negotiate an easement for its *facilities*.

## Chapter 12.58

### WIRELESS COMMUNICATION FACILITIES WITHIN CITY RIGHTS-OF-WAY

#### Sections:

- 12.58.010 Purpose.
- 12.58.020 *Repealed.*
- 12.58.030 Exemptions.
- 12.58.040 Grant of authority – Right-of-way use agreement required.
- 12.58.050 Grant of authority – Effective period.
- 12.58.060 Application – Contents.
- 12.58.070 Application review.
- 12.58.080 Application review and inspection fees.
- 12.58.090 Annual compensation for use of right-of-way.
- 12.58.100 Insurance requirements.
- 12.58.110 Liquidated damages.
- 12.58.120 Liability and indemnification.
- 12.58.130 *Repealed.*
- 12.58.140 Aesthetic and scenic considerations.
- 12.58.150 Adjustments and relocations.
- 12.55.165 Facility security and safety.
- 12.55.170 Abandonment.

#### **12.58.010 Purpose.**

The purpose of this chapter is to grant, through *right-of-way use agreements*, authority for the placement of *wireless communication facilities* within the *rights-of-way* and to establish standards for *right-of-way use agreements* which:

- A. Compensate the *City* for the value of the use of the *right-of-way* by *wireless communication providers*; and
- B. Reimburse the *City* for ongoing costs associated with those uses of the *right-of-way*; and
- C. Encourage competition by establishing consistent terms and conditions under which *wireless communication providers* may use valuable public property to serve the public; and
- D. Fully protect the public and the *City* from any harm that may flow from such private use of the *right-of-way*; and
- E. Protect and carry out the authority of the *City* over activities in the *right-of-way*, while recovering costs; and
- F. Allow the *City* to exercise its stewardship responsibilities with regard to the *right-of-way* in a manner consistent with all applicable *City* policies and codes, including but not limited to the zoning code, the *City* comprehensive plan, and the *Road Standards*; and
- G. Otherwise protect the public interests in the development and use of the *right-of-way* infrastructure and in preserving and improving the aesthetics of the community. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.010).]

#### **12.58.020 Definitions.**

*Repealed*

#### **12.58.030 Exemptions.**

The following *wireless communication facilities* are not subject to the provisions of this chapter:

- A. *Facilities* located or constructed by the *City*;

B. *Facilities* located or constructed by emergency services within the *City* as approved by the *city manager*; or

. [Ord. 16-0426 § 9 (Att. G); Ord. 05-0228 § 2; Ord. 03-0180 §§ 1, 2; (KCC 14.45.030).]

**12.58.040 Grant of authority – Right-of-way use agreement required.**

*Wireless communication facilities* shall only be located or constructed within the *right-of-way* after a *right-of-way use agreement* is approved by the *city manager*. Prior to approving the agreement, the *City* shall ensure that the proposed *facility* is located, designed and proposed to be constructed in a manner that complies with all applicable *City* policies and codes, including but not limited to the provisions of KMC Title 18, Zoning, the *City* comprehensive plan, the *Road Standards*, and per Chapter 12.55 KMC. Furthermore, the *right-of-way use agreement* shall only allow placement of *wireless communication facilities* on improved and maintained *rights-of-way*. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.040).]

**12.58.050 Grant of authority – Effective period.**

The *right-of-way use agreement* constitutes authorization for the *applicant* to use the *right-of-way* at the location specified in the agreement for no more than 10 years. One request for an extension may be approved for up to two years at the discretion of the *city manager*. Failure to comply with the terms and conditions of the *right-of-way use agreement*, including payment of required annual compensation, is cause for revoking the agreement. The agreement holder shall remove *facilities* authorized by the agreement from the *right-of-way* upon termination or expiration of the agreement, unless renewed, or upon revocation of the agreement for cause. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.050).]

**12.58.060 Application – Contents.**

A. The *City* shall not commence review of any *application* set forth in this chapter until the *applicant* has submitted the following:

1. An *application* form provided by the *City* and completed by the *applicant*;
2. The name of the *applicant* and a designated contact person;
3. Plans and specifications for any structures, antenna or other equipment to be placed in the *right-of-way* or, if applicable, on *abutting property*;
4. A vicinity map showing the specific location of *right-of-way* subject to the *application*;
5. When structures and equipment are to be located on *abutting properties*:
  - a. A site plan illustrating the relationship to property lines and other structures on the site;
  - b. Legal description of the site *abutting property*; and
  - c. Proof that the *abutting property* is a legally recognized lot pursuant to KMC Title 17;
6. A critical areas affidavit if required by Chapter 18.55 KMC; and
7. A completed environmental checklist, if required by Chapter 19.35 KMC.

B. The *applicant* shall attest by written oath to the accuracy of all information submitted for an *application*. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.060).]

**12.58.070 Application review.**

A. The *department* shall coordinate review and inspection of the *application* for a *right-of-way use agreement* and, to the extent required, any zoning approvals, building permits and environmental review under the State Environmental Policy Act, as follows:

B. The *department* shall review and evaluate *applications* with respect to the hazard and risk of the proposed construction and location of the proposed construction in relation to other *facilities* in the *right-of-way*.

C. The *City* shall review and evaluate all *applications* to determine consistency with respect to the standards and requirements of Chapter 18.60 KMC and KMC Title 21. The *City* shall also be the lead agency for purposes of any environmental review required under Chapter 19.35 KMC. [Ord. 16-0426 § 9 (Att. G); Ord. 11-0329 § 6; Ord. 03-0180 §§ 1, 2; (KCC 14.45.070).]

**12.58.080 Application, review, and inspection fees.**

The *applicant* shall pay the fees imposed by the city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application* and for other functions necessary for the approval and use of permits and the agreement. These fees shall be equal to the administrative costs of approving the agreement, including but not limited to preparing the permit for construction, review, processing, coordinating review with other departments, preparing environmental documents, inspection, agreement preparation, legal review, etc. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; Ord. 02-0139 § 1; (KCC 14.45.080).]

**12.58.090 Annual compensation for use of right-of-way.**

A. In consideration for continuing use of the *rights-of-way*, the agreement holder shall annually pay compensation to the *City* in an amount approved by the city council by resolution.

B. For the purpose of this section, “replacement pole” means a new pole replacing an existing pole in the *right-of-way* with no increase in the total number of poles in the *right-of-way*. Replacement poles provide extra capacity to support attached *wireless communication facilities*.

C. Payments of required compensation shall be paid to the *City* and are due upon the signing of the agreement, prorated to the end of the year, and the first of January every year thereafter.

D. All use payments prescribed by subsection A of this section shall be automatically escalated annually for the change in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (“CPI-U”) for the Seattle Tacoma-Bremerton Statistical Metropolitan Area for the preceding calendar year. In the event the CPI-U (or a successor or substitute index) is no longer published, a reliable government or other non-partisan index of inflation selected by the county shall be used to calculate the adjusted amounts. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; Ord. 02-0139 § 1; (KCC 14.45.090).]

**12.58.100 Insurance requirements.**

A. For any *right-of-way use agreement*, the agreement holder must carry commercial general liability, automobile liability and stop gap or employers liability coverage, each in minimum limits of not less than \$2,000,000, in an amount approved by the *city manager*. All policies must provide endorsements naming the *City* as an additional named insured.

B. All policies shall be placed with insurers having a Bests’ rating of no less than A:VIII or, if not rated by Bests, with surpluses equivalent to or greater than Bests’ A:VIII rating. The agreement holder shall send copies of certificates, endorsements or other adequate evidence of compliance with this section to the *City* prior to the *City*’s execution of the agreement. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.100).]

**12.58.110 Liquidated damages.**

All *right-of-way use agreements* may provide for liquidated damages to compensate the *City* for harm caused by violation of an agreement or this chapter, or any applicable law in an amount which is a reasonable forecast of just compensation for the harm caused by the violation but no less than \$250.00 per day for each day the violation occurs. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.110).]

**12.58.120 Liability and indemnification.**

A. All *right-of-way use agreements* shall contain the following provision: the holder of agreement shall have no recourse whatsoever against the *City* or its officials, boards, commissions, agents, or employees for any loss, costs, expenses, or damages arising out of any provision or requirement of the agreement, or KMC Title 21 because of the enforcement of the agreement, or KMC Title 21 except if such loss, costs, expenses or damages are the result of the sole negligence or misconduct on the part of the *City* or its agents.



B. All *right-of-way use agreements* shall contain the following provision: to the extent permitted by law, the holder of the agreement shall, at its sole cost and expense, indemnify, hold harmless, and defend the *City* and its officers, boards, commissions, agents and employees, against any and all claims, including but not limited to third-party claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of the construction, repair, *maintenance* or operation of its *wireless communication facilities*, or in any way arising out of the agreement holder's enjoyment or exercise of the *right-of-way use agreement* granted pursuant, or otherwise subject to KMC Title 21, regardless of whether the act or omission complained of is authorized, allowed or prohibited by KMC Title 21 or an agreement. This provision includes, but is not limited to, expenses for reasonable legal fees and for disbursements and liabilities assumed by the *City* as follows:

1. To persons or property, in any way arising out of or through the acts or omissions of the agreement, its officers, employees, or agents or to which the agreement holder's negligence shall in any way contribute;
2. Arising out of an agreement holder's failure to comply with the provisions of any federal, State or local statute, ordinance, rule, or regulation applicable to the agreement holder.

C. The *City* shall give the agreement holder 30 calendar days' written notice of the making of any claim or the commencement of any action, suit or other proceeding covered by KMC Title 21. In the event any such claim arises, the *City* or any other indemnified party shall tender the defense thereof to the permit and the agreement holder shall have the right to defend, settle, or compromise any claims arising hereunder and the *City* shall cooperate fully therein. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.120).]

**12.58.130 Antenna and equipment cabinets/buildings abutting residential zones.**

*Repealed by Ord. 16-0426.* [Ord. 03-0180 §§ 1, 2; (KCC 14.45.130).]

**12.58.140 Aesthetic and scenic considerations.**

A. *Facility* installations shall be designed and constructed to minimize the adverse effect on existing *right-of-way*, manmade or natural amenities. Special efforts shall be taken to minimize any potential negative impact on areas of scenic beauty such as viewpoints, recreation areas, public parks, and historic sites. *Facility* designs shall be in accordance with Chapter 18.60 KMC.

B. Overhead *facilities* shall take into consideration existing trees and future growth. *Facilities* shall be located to avoid or minimize branch trimming, root pruning, or other damage to existing trees.

**12.58.150 Adjustments and relocations.**

A. The *utility* shall be responsible, at no expense to the *City*, to repair, remove or relocate all existing *facilities* within the *right-of-way* if such installation, repair, removal, or *relocation* is required by the *City* for any purpose, including, but not limited, conflicts with a *city project*, *City maintenance* and operation, public safety, pole *relocations* or replacements.

B. *Utility* driven relocations: In the event of a *relocation* or replacement, all *utilities* using the original structure shall transfer to the new structure within 120 calendar days of the new structure installation. The *utility* initiating the *relocation*/replacement shall be responsible for the coordination of and providing a minimum of 90 calendar day notice to any other third-party *Utilities* for the transfer of their respective *facilities*.

C. *Facilities* that conflict with *city projects* shall be relocated as directed by the *City*. *Facilities* shall be relocated in the time frame required by the *right-of-way use agreement*.

D. Failure to relocate *facilities* as required by this section shall be considered a breach of agreement and may result in termination of the agreement and shall be subject to enforcement and the penalties set for in KMC 12.55.130.

**12.58.165 Facility security and safety.**

Notwithstanding reinforcement or protection otherwise provided, a *utility* shall be responsible for the safety and security of any existing *facility* within the *right-of-way*. Where there are construction hazards or where heavy construction equipment will be used, the *utility* shall provide adequate temporary protection. Construction of *facilities* shall be performed in such a manner as to provide a safe passage within the *right-of-way*. In restoring the

*right-of-way*, the *utility* shall protect existing *facilities* in the *right-of-way* without impacting the safe and efficient operation of the *road*.

**12.58.170 Abandonment.**

All abandoned *facilities* shall be removed by the agreement holder from the *right-of-way* within 30 days of being decommissioned by the *utility*.



## Chapter 12.60

### PUBLIC AND PRIVATE UTILITIES ON REAL PROPERTY

#### Sections:

- 12.60.010 Purpose.
- 12.60.020 Permit – Required – Exceptions.
- 12.60.030 Permit – Issuance authority – Use.
- 12.60.040 Permit – Privilege limitations.
- 12.60.050 Permit – Compliance with applicable provisions.
- 12.60.060 Permit – Terms and conditions.
- 12.60.070 Permit – Application – Required information.
- 12.60.090 Permit – Review .
- 12.60.095 Grant of authority.
- 12.60.098 Grant of authority – Effective period.
- 12.60.100 Financial guarantee requirements.
- 12.60.110 Notice of proposed use and commencement – Departmental coordination of permit approval.
- 12.60.120 Notice to agencies of construction date.
- 12.60.130 Permit revocation.
- 12.60.140 Termination of privileges – Assessment.
- 12.60.150 Enforcement.
- 12.60.160 Rights reserved to City – Conformance and payment of cost required.
- 12.60.170 Rule and regulation promulgation.
- 12.60.180 Severability.
- 12.60.190 Application, review, and inspection fees.
- 12.60.200 Annual compensation for use of real property.

#### **12.60.010 Purpose.**

The purpose of this chapter shall be to authorize and regulate the issuance of permits for the accommodation of public and private *facilities*, and other related uses upon the *City*-owned real property which is not dedicated as *right-of-way* and to ensure that privileges authorized by the permits are consistent with public ownership of the property, the *City* comprehensive plan, the critical areas code, sound engineering and design standards, and health and sanitation regulations. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.010).]

#### **12.60.020 Permit – Required – Exceptions.**

All *work* performed upon, along, over, under or across any public place in the *City* shall require a *special use permit* to be issued by the *City*; provided, that *work* undertaken by the *City* or under contract to the *City* shall be exempted from this requirement. *Work* includes, but is not limited to, construction and *maintenance* of waterworks, gas pipes, telephone, telegraph and electric lines, sewers, cable television, *wireless* communications, petroleum products and any other such public and private *facilities*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.020).]

#### **12.60.030 Permit – Issuance authority – Use.**

The *City* is authorized to issue revocable permits for all *work* and other related uses upon, along, over, under or across any public place in the *City*. The permits shall be used to authorize an act or series of acts on *City*-owned real property which is not dedicated as *right-of-way*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.030).]

#### **12.60.040 Permit – Privilege limitations.**

The permits shall not be construed to convey any vested right in the property. The permits grant only a personal and revocable privilege and license to do one or more acts on the property without possessing any interest in the property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.040).]

**12.60.050 Permit – Compliance with applicable provisions.**

The issuance of permits authorized in this chapter does not relieve or release the *permittee* from complying with other applicable statutes, ordinances, restrictions, regulations, rules or obligations in connection with the *permittee's* proposed use of the property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.050).]

**12.60.060 Permit – Terms and conditions.**

The *permits* shall be subject to all terms, conditions and restrictions, imposed by the department responsible for the management of the property to be affected, deemed necessary to preserve all characteristics consistent with public ownership. The general and specific terms, conditions and restrictions of the *permits* will vary according to, but not limited to, the following:

- A. The property interest owned by the *City*;
- B. All federal, State or local restrictions placed on the use of the property;
- C. The purpose for acquiring the property;
- D. Plans for the future development of the property;
- E. The *applicant's* proposed use of the property; and
- F. The individual characteristics of the property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.060).]

**12.60.070 Permit – Application – Required information.**

*Applications* for all *permits* shall be submitted, in writing, to the *City*. The *application* shall contain whatever information, including plans and specifications, the *City* shall require. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.070).]

**12.60.090 Permit – Review.**

- A. The *City* shall review *applications* for compliance with all City codes, plans, and *Road Standards*. *Work* within *City* parks shall be reviewed for consistency with the *City's* most current Parks, Recreation, and Open Space Plan.
- B. The department responsible for the management and maintenance of the property to be affected shall review and evaluate *applications* with respect to the hazard and risk of the proposed construction or use, location of the proposed construction or use in relation to other *facilities* and infrastructure using the property, the adequacy of the engineering and design of the proposed construction or use, and applicable Federal, State, County and local laws and regulations.
- C. If applicable, the district fire marshal and/or utility district shall review and evaluate *applications* for the construction of waterworks to determine consistency with standards for water mains and fire hydrants.
- D. The *City* shall review *applications* for compliance with critical area regulation issues and shall be responsible for assuring that any *application* meets the requirements of the critical areas code set out in Chapter 18.55 KMC and the administrative rules promulgated thereunder before the permit is issued.
- E. Additional permitting may be required by other agencies. The *applicant* shall be responsible for securing all necessary permits not issued by the *City*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.090).]

**12.60.095 Grant of authority.**

*Facilities* shall only be located or constructed on real property after a use agreement is approved at the discretion of the *city manager*. Prior to approving the agreement, the *City* shall ensure that the proposed *facility* is located, designed and proposed to be constructed in a manner that complies with all applicable *City* policies and codes, including but not limited to the provisions of KMC Title 18, Zoning, the *City* comprehensive plan, and other sections of KMC as applicable.

**12.60.098 Grant of authority – Effective period.**

The use agreement constitutes authorization for the *applicant* to use the city property at the location specified in the agreement for no more than 10 years. Extensions may be approved at the discretion of the *city manager*. Failure to comply with the terms and conditions of the use agreement, including payment of required annual compensation, is cause for revoking of the use agreement. The agreement holder shall remove *facilities* authorized by the agreement from the *city property* upon the termination or expiration of the agreement, unless renewed, or upon revocation of the agreement for cause.

**12.60.100 Financial guarantee requirements.**

Prior to final approval of all permits, the *department* shall determine the amount of the performance guarantee necessary to assure compliance with approved construction plans, applicable State and local health and sanitation regulations, standards for water mains and fire hydrants, and to assure proper *restoration* of the property and the health and safety of the users of the property. The *applicant* shall submit the financial guarantee consistent with the provisions of KMC Title 21. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.100).]

**12.60.110 Notice of proposed use and commencement – Departmental coordination of permit approval.**

A. The *applicant*, at the time of submitting an *application* for a permit, shall notify all public and private *utility* entities known to be using or proposing to use the same public place of the *applicant's* proposed use and the proposed timing of any construction. Any such entity notified may, within seven days of such notification, request a delay in the commencement of any proposed construction for the purpose of coordinating other construction work on the property with that proposed by the *applicant*. The *City* may delay the commencement date for the *applicant's* construction work on the property for 90 days or less if it finds that such delay will reduce the inconvenience to the public from construction activities, and it finds that such delay will not create undue economic hardship on the *applicant*.

B. The *City* shall also coordinate the approval of *permits* with the department responsible for the management and maintenance of the property to be affected and may delay the commencement date for the *applicant's* construction work for 180 days or less upon making the findings described in subsection (A) of this section. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.110).]

**12.60.120 Notice to agencies of construction date.**

The *permittee* is required to give written notice of the date construction will begin to the following agencies: the *department* responsible for the management and maintenance of the property to be affected; Northshore Utility District for construction of waterworks; the fire marshal for construction of waterworks. Failure to give such notice is grounds for the revocation or suspension of the permit. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.120).]

**12.60.130 Permit revocation.**

Any permit issued by the authority of this chapter shall be revocable at any time that the *department* responsible for the management and maintenance of the property affected shall determine that the public health, safety, general welfare, or public use requires such revocation, and the right to revoke is expressly reserved to the *City*. At a reasonable time prior to action upon such revocation or proposed revocation, opportunity shall be afforded to the *permittee* to present for consideration action or actions alternative to the revocation of such permit. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.130).]

**12.60.140 Termination of privileges – Assessment.**

All privileges granted by the use agreement shall automatically terminate at such time as the *permittee* ceases to use the property and any *facilities* authorized by the agreement. The *permittee* may terminate the agreement by written notice to the *city manager*. Upon revocation, termination or abandonment of any agreement, the *permittee* shall remove at the *permittee's* expense all *facilities* placed on such property by the *permittee* and restore the premises to a condition which is equivalent in all respects to the condition existing prior to installation of the *facilities*, as noted in the agreement, or to a condition which is satisfactory to the *City*. If the *permittee* has not accomplished removal and *restoration* at the end of a 90-day period following the effective date of revocation, termination or *abandonment*, the *City* may accomplish all of the necessary work and charge all costs related to said work to the *permittee*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.140).]

**12.60.150 Enforcement.**

In addition to other enforcement powers and not in limitation thereto, the *city manager* is authorized to enforce the provisions of this chapter, and any rules and regulations adopted thereunder pursuant to the enforcement and penalty provisions of Chapter 1.20 KMC. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.150).]

**12.60.160 Rights reserved to City – Conformance and payment of cost required.**

The *City* reserves the sole right to use, occupy and enjoy its property for such purposes as it desires and deems fit, including, but not limited, to constructing or installing structures and *facilities* on the property, or developing, improving, repairing, *maintaining* or altering the property. The *permittee* upon written notice will, at the *permittee's* own expense, remove, repair, relocate, change or reconstruct *facilities* to conform with the plans of *work* contemplated or ordered by the *City* according to a time schedule contained in the written notice. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.160).]

**12.60.170 Rule and regulation promulgation.**

The *city manager* may promulgate any rules and regulations necessary for the operation of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.170).]

**12.60.180 Severability.**

If any provision of this chapter or its *application* to any person or circumstances is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.180).]

**12.60.190 Application, review, and inspection fees.**

Each *application* requires fees, imposed by the city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application* and for other functions necessary for the approval and use of permits and the agreement. These fees shall be equal to the administrative costs of approving the agreement, including, but not limited to, preparing the permit for construction, review, processing, coordinating review with other departments, preparing environmental documents, inspection, agreement preparation, legal review, etc.

**12.60.200 Annual compensation for use of real property.**

In consideration for continuing use of *City* real property, an agreement holder shall pay annual compensation for use of the property. The amount of the use payment shall be as adopted by the city council by resolution.

## Chapter 12.65

### SNOW EMERGENCY ROUTES

Sections:

- 12.65.010 Designation.
- 12.65.020 Publication.
- 12.65.030 Snow emergency – Declaration authority – News bulletin.
- 12.65.040 Coordination of snow removal activities with other jurisdictions.

#### **12.65.010 Designation.**

Certain arterial and collector *roads*, school bus routes, and other *roads*, to be identified and so designated by the *city manager*, are declared snow emergency routes. Such snow emergency routes shall be the first *streets* to be sanded and/or cleared of snow.

A list of *streets* which will remain open and available for school bus use during thawing conditions shall be supplied to each and every school district operating on *City streets* within the *City*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.010).]

#### **12.65.020 Publication.**

The *city manager* shall issue a news bulletin to all *City* police, fire services and the school district, a listing of all such snow emergency routes. Such listing shall be issued annually prior to the second Monday in October. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.020).]

#### **12.65.030 Snow emergency – Declaration authority – News bulletin.**

A. The *city manager* is empowered to declare a snow emergency. The *city manager* shall establish guidelines for conditions which will warrant the declaring of a snow emergency.

B. When a snow emergency is declared, the *city manager* shall issue an emergency news bulletin through the *City's* electronic media and to the chief of the police and fire departments, so that there may be coordination for the deployment of personnel and equipment. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.030).]

#### **12.65.040 Coordination of snow removal activities with other jurisdictions.**

The *city manager* shall coordinate *City* snow removal activities with federal, State, county and other local jurisdictions located within or adjacent to the *City* for the purpose of continuity in clearing snow emergency routes. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.040).]

**Chapter 12.70**  
**SIDEWALKS, PLANTING STRIPS**  
**AND STREET TREES**

Sections:

- 12.70.010 Definitions.
- 12.70.020 Abutting property owner to maintain sidewalk in safe condition
- 12.70.030 Abutting property owner shall be responsible for expense of sidewalk maintenance and repair
- 12.70.040 Procedure for sidewalk construction or repair.
- 12.70.050 Right-of-way vegetation maintenance
- 12.70.060 Sidewalk – Snow, ice and trash removal required when.
- 12.70.070 Sidewalk – Violation of KMC 12.70.050 deemed misdemeanor.
- 12.70.080 Exemption from KMC 12.70.040 and 12.70.050 permitted when.
- 12.70.090 Right-of-way vegetation – Trimming limitations – Removal prohibited.
- 12.70.100 Right-of-way maintenance – Enforcement.

**12.70.010 Definitions.**

In addition to the definitions in Section 12.05 KMC, the following definitions shall apply to this Section:

A. “Hazardous tree” means any tree with any structural defect, disease, damage, or combinations of these which make it subject to a high probability of failure which might cause damage to persons or property. A “hazard tree” includes, but is not limited to, any isolated tree(s) that have a high probability of failure due to low wind-firmness in post-construction conditions as determined by a qualified tree protection professional.

B. “Planting strip” means that portion of the *right-of-way* which lies:

1. Between the *curb* line and the *sidewalk*; and
2. Between the *sidewalk* and the *right-of-way* line; or
3. Between the edge of pavement and the *right-of-way* line where *sidewalk* and/or *curb* are not present; or
4. Between the *curb* line and the *right-of-way* line where *sidewalk* is not present.

And may include, but not limited to, trees, shrubs, groundcover, fences, *facilities*, signs, hydrants, gravel, drainage infrastructure. [Ord. 17-0445 § 1; Ord. 16-0428 § 2 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.010).]

**12.70.020 Abutting property owner to maintain sidewalk in safe condition.**

It shall be the responsibility of the *owner* of property abutting upon a public *sidewalk* to maintain the *sidewalk* at all times in a safe condition, free of any and all obstructions or defects, see section 12.70.050.

**12.70.030 Abutting property owner shall be responsible for expense of maintenance and repair.**

The burden and expense of maintaining *sidewalks* along the side of any *street* or other public place shall be borne by and the responsibility of the *owner* of the property directly abutting thereon. The *abutting property owner* shall also be responsible for performing and paying for *sidewalk* repairs to the extent the need for repairs is caused by the actions or omissions of the *abutting property owner*.

**12.70.040 Procedure for sidewalk construction or repair..**

A. If the judgment of the *city engineer* or another department of public works official, public convenience or safety requires that a *sidewalk* be constructed or repaired along either side of any *street*, such fact shall be reported to the city council.



B. If upon receiving a report from the proper official, the city council deems the construction of the proposed *sidewalk* or repair of such *sidewalk* necessary or convenient for the public health, safety or welfare, the city council may then order such work to be done pursuant to the procedures established in Chapter 35.68, 35.69 or 35.70 RCW. The cost of such proposed *sidewalk* construction or *sidewalk* repair shall be borne by the *abutting property owner* in accordance with Chapter 35.68, 35.69 or 35.70 RCW.

C. Permit Required: Before commencing reconstruction or repair of a *sidewalk*, the *owner* must submit an application for a *right-of-way use permit, limited* (Type A). The application must include the plans for the reconstruction or repair, together with an estimate of the cost of the reconstruction or repair. The *city engineer* shall evaluate the cost of the reconstruction/repair. The *city engineer* may require the *owner* to provide additional information to evaluate the cost. If the *city engineer* determines that the cost of the reconstruction or repair will exceed 50 percent of the *abutting property* valuation, exclusive of improvements, the *owner* must modify the plans for the reconstruction or repair so that the cost does not exceed 50 percent of such valuation. The *owner* will not commence the reconstruction or repair until the *city engineer* has approved the modified plans. The *abutting property* valuation shall be the current valuation as determined by the King County Assessor's office website for said property.

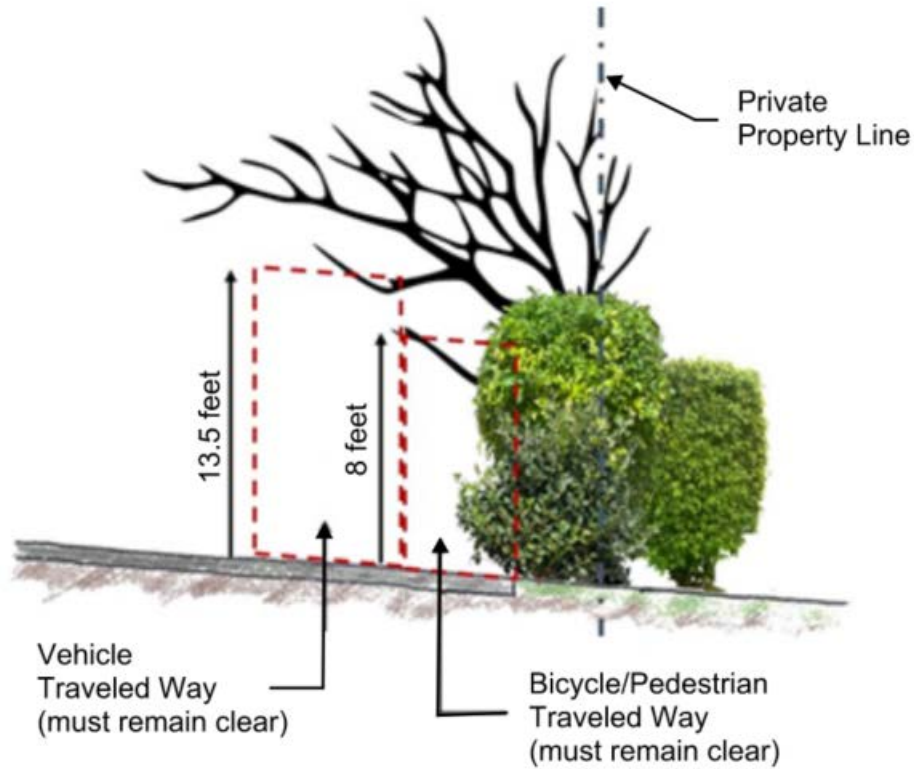
**12.70.050 Right-of-way vegetation maintenance.**

A. Maintenance of *planting strips*, *sidewalks*, and *unimproved right-of-way*, including *hazardous trees*, tree limbs and shrubbery that obstructs the *road* and/or *sidewalk* or blocks sight distance or signage, soil, gravel, weeds, grass, or other ground cover, will be the responsibility of the *abutting property owner*. Vegetation in *planting strips* will be *maintained* in a condition that does not impair the use of the *right-of-way* by the *City* or the traveling public. The use of the *right-of-way* includes, but is not limited to:

1. Motor vehicles on paved roadways;
2. Bicycles on paved surfaces or designated trails;
3. Pedestrians on *sidewalks*, designated paved walkways or other pedestrian paths as determined by the *city manager*; and
4. *City maintenance* and operations.

B. Vegetation shall not overhang *sidewalks*, walkways or bike lanes within eight feet, measured vertically from any point on the traveled way. Vegetation shall not overhang vehicle lanes within 13.5 feet, measured vertically from any point on the traveled way. Vegetation shall be trimmed as needed to prevent blockage of sight distance per the *Road Standards* or any roadway sign. The traveled way is defined as:

1. The traveled way for pedestrians shall be *sidewalks*, paved walkways separated by a *curb* from the vehicle traveled way, or paved walkways signed for pedestrians. Other pedestrian paths, as determined by the *city manager*, may also be defined as a pedestrian traveled way.
2. The traveled way for bicycles shall be defined by signage and pavement markings and shall be a paved area separated by pavement markings from the vehicle traveled way or a paved path as determined by the *city manager*.
3. The traveled way for vehicles will be defined by the edge stripe or edge of pavement where no stripe is present.



C. Drainage ditches shall be kept free of debris and maintained in a condition that allows the free flow of water and provides for adequate access for *City maintenance* and inspections. Aesthetic *maintenance* of drainage ditch vegetation, assuming adequate access and free flow of water is maintained, is the responsibility and at the discretion of the *abutting property owner*.





D. Within *unimproved right-of-way*, *abutting property owners* shall be responsible for trimming vegetation that overhangs onto their respective property and for removing *hazardous trees*. The *abutting property owner's* responsibility shall extend to the center of the *unimproved right-of-way*.

E. All slopes adjacent to *abutting properties* shall be maintained by the *owner*. *Maintenance* shall be consistent with the requirements for *planting strips* and shall include erosion control and vegetation stabilization.

F. Certain *planting strips*, *sidewalks*, *unimproved right-of-way* and other *right-of-way* areas may be *maintained* by the *City* at the *city manager's* discretion. [Ord. 17-0445 § 4, 2017; Ord. 16-0428 § 2 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.040).]

**12.70.060 Sidewalk – Snow, ice and trash removal required when.**

It is unlawful for any person, firm or corporation owning *abutting property* within the *City* to permit the accumulation of snow, ice, vegetative debris, trash or any other material on an existing *sidewalk* which impedes the normal flow of pedestrian traffic. In the event the property is owned by a person not a resident of the *City*, a reasonable period of time shall be provided for the *owner* or the *owner's* agent to remove the material. If such removal is not accomplished within a reasonable period of time, the *city manager* may have the *sidewalk* cleaned and the cost thereof shall be billed to the *property owner*. The determination of reasonable period of time shall be at the sole discretion of the *city manager*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.050).]

**12.70.070 Sidewalk – Violation of KMC 12.70.050 deemed misdemeanor.**

Each day any *sidewalk*, or driveway portion thereof, is permitted to remain in a hazardous condition as specified in KMC 12.70.050 shall be considered and shall constitute a separate violation. Violation of KMC 12.70.050 shall constitute a misdemeanor and shall be punishable as provided by law. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.060).]

**12.70.080 Exemption from KMC 12.70.030 and 12.70.050 permitted when.**

Property that abuts the *right-of-way* which is substantially higher or lower in elevation than the *road*, which does not have reasonable access to that section of the *right-of-way*, and where that portion of *right-of-way* is not continuous

to abutted *right-of-way* that is accessible may apply for an exemption from the provisions of KMC 12.70.030 and 12.70.050. Exemptions may be granted by the *city engineer* based upon standards which shall be established by the *department*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.070).]

**12.70.090 Right of way vegetation – Trimming limitations – Removal prohibited.**

A. Notwithstanding any provision of *franchise* agreements, vegetation within the public *right-of-way* shall not be removed or cut back so as to generally damage the aesthetic quality or survivability of the vegetation. Such trimming, when required by *utility* companies to safeguard their *facilities*, shall be done in a manner that preserves the general appearance of the vegetation. The same provisions shall be applicable to others in that trees, shrubs and other plantings shall not be removed or otherwise trimmed so as to damage the general appearance of the planting areas.

B. Judicious trimming is permitted in such areas that will provide proper sight distance for intersections and driveways and such traffic warning or regulatory signs that are in place. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.080).]

**12.70.100 Right-of-way maintenance - Enforcement**

A. Should the *city engineer* find that such *right-of-way* is not being properly maintained consistent with KMC 12.70.050 through 12.70.090, the *city engineer* may, but is not required to, notify the *abutting property owner* to comply with the provisions of this chapter. The notice will be prepared per KMC 1.20.070 as amended below and include:

1. All references to “code enforcement officer” shall mean *city manager*;
2. Instruction to the *abutting property owner* to trim or remove the vegetation and specify a reasonable time for the trimming or removal of said vegetation.
2. A statement that if the *owner* fails to trim or remove the vegetation within the time frame provided, the *City* will begin enforcement proceedings per chapter 1.20 KMC or if determined by the *city engineer* to be a public safety hazard, interferes with Americans with Disabilities Act (ADA) accessibility, an environmental hazard, or impedes *City maintenance* and operations, that the *City* will perform the *maintenance* pursuant to subsection B of this section; and
3. A statement that in the case of a public safety hazard, interference with ADA accessibility, an environmental hazard, or impeding *City maintenance* and operations, that any cost incurred by the *City* may be assessed against the *property owner* for failure to comply with this provision.

B. If, by determination of the *city engineer*, the vegetation is a public safety hazard, environmental hazard, or impedes *City maintenance* and operations and the *abutting property owner* fails to complete the required *maintenance* within the time period stated in the notice, the *City* will perform the required *maintenance* and the cost may, at the discretion of the *city engineer*, be assessed against the *abutting property owner*. After completion, the *city engineer* will determine the cost to be charged to the *owner* and the time and manner of payment thereof; provided, that the cost will not exceed 50 percent of the valuation of the *abutting property*, exclusive of improvements. The cost will include all direct invoiced costs for materials and equipment as well as \$75.00 per hour per person of labor performed by the *City* in completing the *maintenance* requirements. If contracting services are necessary to complete the *maintenance*, the full cost of the contract services shall be included in the cost charged to the *property owner*. The *abutting property* valuation shall be as determined by the most current assessment of King County Assessor’s office for said property. The *city engineer* will give notice of the cost to the *owner*. The notice shall:

1. State the cost to be charged to the *owner* and the time and manner of payment thereof;
2. Include documentation to support the charges;
3. Advise the *owner* that the cost cannot exceed 50 percent of the valuation of the property, exclusive of improvements;

4. State that the *city engineer* will hear protests to the determination of cost, time, and manner of payment if received within 30 calendar days of date of delivery of the notice.

C. In the event payment is not received by the *City* within the time frame stated in the notice, the *city engineer* may place a lien upon the property or submit the charges to a licensed collection agency. Any lien will be collected in the manner as provided by law for collection of local improvements assessments.

D. The *owner* may appeal the *city engineer's* determination of cost, time, and manner of payment for 12.70.050 through KMC 12.70.090 by filing a notice of appeal with the *city manager* within 14 calendar days after delivery of the *city engineer's* determination. The *city manager* will give notice of receipt of the appeal and a deadline for response. After the protest consideration, the *city manager* will issue a decision, which will be the *City's* final decision on the *owner's* responsibility for *maintenance*. Additional time to submit an appeal may be granted at the *city engineer's* discretion.

E. All notices will be mailed to the owner of the *abutting property*, to the property tax address on file on the King County Tax Assessor's website, if the *City* determines that the *abutting property* is not *owner-occupied*, or to any address noted on any communication from the *abutting property owner*.

**Chapter 12.75**

**INTEGRATED TRANSPORTATION PROGRAM**

**(Repealed by Ord. 16-0420)**

## Chapter 12.80

### INTEGRATED TRANSPORTATION PROGRAM

#### Sections:

- 12.80.010 Definitions.
- 12.80.020 Components of the integrated transportation program.
- 12.80.030 Level of service standards.
- 12.80.040 Concurrency requirements.
- 12.80.050 Transportation impact fees.
- 12.80.060 Safe site access.
- 12.80.070 Procedures for development review.
- 12.80.080 Administrative rules.
- 12.80.090 Appeals.
- 12.80.100 Relation to other permit authority.
- 12.80.110 Exceptions.

#### **12.80.010 Definitions.**

A. “Concurrency” means transportation improvements or strategies to accommodate the impacts of a *development* are made concurrent with the *development*, so that the level of service on a city transportation *road* does not decline below the levels of service adopted in this chapter. “Concurrent with the *development*” means that improvements or strategies are in place at the time of the *development*, or that a financial commitment is in place to complete the improvements or strategies within six years.

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

C. “Transportation improvement program” means the annual program of capital transportation projects programmed by the *City* to be implemented during a six-year period.

[Ord. 16-0420 § 2 (Exh. 1).]

#### **12.80.020 Components of the integrated transportation program.**

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

A. Level of service (LOS) standards to evaluate the performance of the *City’s* multimodal transportation system and to ensure that the system is built over time to maintain LOS standards (KMC 12.80.030).

B. *Concurrency* requirements defining an adequate transportation system (KMC 12.80.040).

C. Transportation impact fees to require new growth and development to pay a proportionate share of the cost of new multimodal transportation improvements to serve the new growth and costs (Chapter 20.47 KMC).

D. Safe site access to facilitate safe and efficient operation of the transportation system through site-access improvements (KMC 12.80.060). [Ord. 16-0420 § 2 (Exh. 1).]

#### **12.80.030 Level of service standards.**

Level of service standards are established for different modes of travel within the *City*:

##### A. Roadway Level of Service Standards.

1. The level of service for roadways shall be as described in the most recent Transportation Research Board Highway Capacity Manual. The LOS shall be amended on a date selected by the *city manager* whenever the LOS in the Highway Capacity Manual is amended by the Transportation Research Board. The *city manager* may select and apply alternative LOSs, to be effective on a date selected by the *city manager*.

2. Roadway LOS shall be by functional classification of roadway:

- a. Major arterials – LOS “E” or better;
- b. Minor arterials and collectors – LOS “D” or better; and
- c. Local *roads* – LOS “C” or better.

3. Roadway LOS shall be measured at intersections of classified roadways, except as provided in subsection (A)(4) of this section.

4. Roadway LOS shall be measured at the corridor level on SR 522 and 68th Avenue (south of SR 522)/Juanita Drive/Simonds Road.

5. When a lower classification of roadway intersects with a higher classification of roadway (for example, when a local *road* connects with a minor arterial), the LOS for the higher classification shall apply.

B. Pedestrian Level of Service Standards.

1. The *City* has designated a yellow LOS for pedestrian access where indicated in the pedestrian priority network (all as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.
2. Outside of the pedestrian priority network, the *City* has not established an LOS.

C. Bicycle Level of Service Standards.

1. The *City* has designated a yellow LOS for bicycle infrastructure where indicated in the bicycle priority network (all as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.
2. Outside of the bicycle priority network, the *City* has not established an LOS.

D. Transit Level of Service Standards.

1. The transportation element of the comprehensive plan contains guidance for providing quality transit service, amenities, and access to an identified transit priority network. While the *City* does not control transit service, it has established the following level of service standards for transit stop amenities and pedestrian access to transit:
  - a. The *City* has designated a yellow LOS for transit stop amenities and pedestrian access to transit (as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.
  - b. Outside of the transportation priority network, the *City* has not established an LOS. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.040 Concurrency requirements.**

A. Transportation *concurrency* shall be determined using the *City* owned and maintained *mobility unit* spreadsheet. This spreadsheet compares the amount of transportation capital projects constructed or programmed in the next six years (*mobility unit* capacity) to the amount of *mobility units* that would be generated by new *development* (*mobility unit* demand). If the *City*’s *mobility unit* capacity is larger than the *mobility units* that would be generated by new *development*, then the transportation system will be deemed to be concurrent.

1. *Mobility unit* capacity shall be determined annually.

B. The *city manager* may approve a reduction in estimated *mobility units* based on the types of land uses that are to be developed or expected travel characteristics of the *development*.

1. The calculation of *mobility unit* reductions as described in this section shall be based upon sound and recognized technical information and analytical processes that represent current engineering practice. In all cases, the *city manager* shall have final approval of all such data, information and technical procedures used to calculate *mobility unit* reductions. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.050 Transportation impact fees.**

A. Transportation impact fees shall be assessed and collected as described in Chapter 20.47 KMC.

B. *Mobility units* calculated for *concurrency* requirements (KMC 12.80.040) shall also be used to calculate transportation impact fees. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.060 Safe site access.**

A. *Developments* shall provide for safe site access to facilitate safe and efficient operation of the multimodal transportation system, in accordance with the *Road Standards* adopted in Chapter 12.50 KMC.

B. For the purposes of this chapter, the developer shall achieve “safe site access” by mitigating either or both of the following when the *development* is complete and able to generate traffic:

1. A roadway intersection that provides access to a proposed *development* and that will function at a level of service worse than specified in KMC 12.80.030; or
2. A roadway intersection or approach lane where the *city manager* determines that a hazard to safety could reasonably result.

C. The developer shall provide improvements which bring the site access into compliance with the level of service and within a time schedule as may be required by the *city manager*. Approval to construct the *development* shall not be granted until the developer has satisfied the *concurrency* definition and its elements, as set forth in KMC 12.80.010(A). [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.070 Procedures for development review.**

Following the submission of an *application*, the *city manager* shall calculate the transportation impact fee to be paid under Chapter 20.47 KMC and shall determine whether necessary transportation improvements are provided for as set forth in KMC 12.80.010(A) and that any required site access improvements are provided. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.080 Administrative rules.**

For transportation impact fees, transportation *concurrency*, and safe site access, the *city manager* may adopt such administrative rules and procedures as are necessary to implement this chapter. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.090 Appeals.**

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

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

1. The *City* committed a technical error; or
2. Alternative data or a mitigation plan submitted to the *City* was inadequately considered. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.100 Relation to other permit authority.**

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

A. Any zone reclassification request, based on its expected impacts on the multimodal transportation system;

B. Any proposed *development* or zone reclassification, if the *City* determines that a hazard to safety would result from direct traffic impacts of the *development* or reclassification, without roadway or intersection improvements, regardless of level of service standards; or

C. Any proposed *development* subject to review under the Washington State Environmental Policy Act. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.110 Exceptions.**

Except for KMC 12.80.030 and 12.80.050, the *city manager* may grant an exception to or deviation from the requirements of this chapter. Any exception or deviation shall be in writing and supported by a finding that extraordinary conditions exist which make full compliance infeasible or would be an unreasonable hardship. The *city manager* shall make the final determination on what is infeasible or an unreasonable hardship. [Ord. 16-0420 § 2 (Exh. 1).]



## Chapter 12.85

### STATE ROUTE 522 ACCESS MANAGEMENT PROGRAM

#### Sections:

- 12.85.010 Purpose.
- 12.85.020 Applicability.
- 12.85.030 Definitions.
- 12.85.040 Application process and procedures.
- 12.85.050 Permit application submittal process.
- 12.85.060 Fees and surety bond.
- 12.85.070 Permit application – Review and conditions.
- 12.85.080 Construction requirements.
- 12.85.090 Changes in property site use.
- 12.85.100 Permit modification and revocation – Closure of permitted connections.
- 12.85.110 Access control classification.

#### **12.85.010 Purpose.**

SR 522 is a State route in the *City* with a functional classification of principal arterial. The purpose of this chapter is to implement an access management program consistent with Chapter 47.50 RCW and Chapters 468-51 and 468-52 WAC; to protect and preserve the functional integrity of SR 522 by providing for adequate safety and transportation capacity; to protect the public health, safety, and welfare; and to promote the safe and efficient movement of people and goods.

The access management program, which coordinates land use planning and building permit decisions by the *City* and investments in the *State highway system*, will control the proliferation of connections and other access approaches to and from SR 522. Without such a program, the health, safety, and welfare of *City* residents and users of SR 522 are at risk due to the fact that uncontrolled access is a significant contributing factor to the congestion and functional deterioration of an arterial. The access management program further will enhance the development of an effective transportation system and increase the traffic-carrying capacity of SR 522, thereby reducing traffic accidents, personal injury, and property damage or loss; mitigating environmental degradation; promoting sound economic growth and the growth management goals of the State; reducing *highway maintenance* costs and the necessity for costly traffic operations measures; lengthening the effective life of the transportation infrastructure, thus preserving the public investment in such infrastructure; and shortening response time for emergency vehicles. [Ord. 06-0247 § 1.]

#### **12.85.020 Applicability.**

A. Connections. New connections, existing connections, or alterations to existing connections to SR 522 require a *connection permit*. The use of a new connection at the location specified in the *permit* is not authorized until the *applicant* constructs or modifies the connection in accordance with *permit* requirements.

B. Change in Use. Where a parcel of property is already developed, but where the type of use for that property is changed, and where such change in use shall cause an increase of 10 peak hour trips generated from that property onto SR 522, then such change in use shall require a *connection permit* for its continued use of existing SR 522 connection(s). The *connection permit* may require modifications to the existing connection(s).

C. Permit Modification. If a *property owner* or *applicant* holding a valid *connection permit* wishes to alter the *permit* conditions, the *permit* holder must apply for a *permit* modification. The *city manager* shall have authority to approve or deny the modification *application*.

D. Construction Cost. The cost of construction or alteration of a connection shall be borne by the *permittee*.

E. Unpermitted Connection. An unpermitted connection to SR 522 that exists after approval of the ordinance codified in this chapter by the city council is subject to closure by the *City*. The *City* may install barriers across the connection or remove the connection if a *connection permit* is not approved by the *City*. The *city manager* will

provide reasonable notice of the *City's* impending action to the *owner* of property served by the connection. Cost of removal shall be paid for by the *property owner*.

F. Permit Fee. The *City* in this chapter has established a schedule of fees for *connection permits*. The fee shall be nonrefundable.

G. Joint-Use Connection. The *city manager* may issue a *permit* subject to any conditions necessary to carry out the provisions of this chapter, including, but not limited to, requiring the use of a joint-use connection.

H. Nonconforming Access Permit. The *city manager* may issue a nonconforming access *permit* after finding that to deny an access *permit* would leave the property without a reasonable means of access to the public *road*. Every nonconforming access *permit* shall specify limits on the maximum vehicular use of the connection and shall be conditioned on the availability of future alternative means of access for which access *permits* can be obtained. [Ord. 06-0247 § 1.]

#### **12.85.030 Definitions.**

Terms within this chapter are defined in the *Road Standards*. The following additional definitions shall apply to this chapter unless the context clearly indicates otherwise:

A. "Average weekday vehicle trip ends (AWDVTE)" means the estimated total of all trips entering plus all trips leaving the *applicant's* site, based on the final stage of proposed *development*.

B. "Conforming connection" means a connection that meets current *City* criteria pertaining to location, spacing, and design.

C. "Connection" means approaches, driveways, turnouts, or other means of providing for the right of access to or from a controlled access *road*.

D. "Connection category" means a permit category of all State *highway* connections, in accordance with the type of property served and the estimated traffic generated by the *applicant's* site, based on rates accepted by the *City*.

E. "Connection permit" means a written authorization of the *City* for a specifically designed connection, at a specific location, for a specific type and intensity of property use, and specific volume of traffic for the proposed connection, based on the final stage of proposed *development* of the *applicant's* property.

F. "ITE" means the Institute of Transportation Engineers.

F. "Joint use driveway" means a single access point that serves as a connection to more than one property or *development*, including those in different ownerships or in which access rights are provided in the legal descriptions.

G. "Median" means the portion of a divided *highway* or divided connection separating vehicular traffic traveling in opposite directions; not including speed change lanes, storage lanes for left turning or U-turning vehicles, or two-way left-turn lanes.

H. "Reasonable access" means an access connection that is suitable for the existing and/or proposed property use and does not adversely affect the safety, operations, or *maintenance* of the *road*.

I. "State highway system" means all *roads* designated as State routes in compliance with Chapter 47.17 RCW.

[Ord. 06-0247 § 1.]

#### **12.85.040 Application process and procedures.**

A. Early Consultation. To expedite the overall *permit* review process, the *applicant* is strongly encouraged to consult with the *City* prior to submitting an *application* pursuant to this chapter. The purpose of the consultation is to obtain a conceptual review of the *development* site plan and proposed access connections to SR 522 with respect to location, quantity, spacing, and design standards. Such consultation will assist the *applicant* in minimizing problems and delays during the permit *application* process and could eliminate the need for costly changes to site plans when a proposed connection would not be allowed and identified as such early in the planning phase.

B. Connection Categories. All *connections*, public or private, shall be determined by the *City* to be in one of the following categories:

1. “Category I – minimum connection” provides *connection* to SR 522 for up to 10 single-family residences, a duplex, or a small multifamily complex of up to 10 dwelling units, which use a common *connection*. The category shall also apply to permanent *connections* to agricultural and forest lands, including field entrances; *connections* for the operation, *maintenance*, and repair of *facilities*; and *connections* serving other low-volume traffic generators expected to have an AWDVTE of 100 or less.
2. “Category II – minor connection” provides *connection* to SR 522 for medium volume traffic generators expected to have an AWDVTE of 1,500 or less, but not included in Category I.
3. “Category III – major connection” provides *connection* to SR 522 for high volume traffic generators expected to have an AWDVTE exceeding 1,500.
4. “Category IV – temporary connection” provides a temporary, time limited *connection* to SR 522 for a specific property, for a specific use, with a specific traffic volume. Such uses include, but are not limited to, temporary construction and temporary emergency access. The *City* reserves the right to remove any temporary *connection* at its sole discretion and at the expense of the *property owner/applicant* after the expiration of the *permit*. Further, a temporary *connection permit* does not bind the *City*, in any way, to the future issuance of a permanent *connection permit* at the temporary *connection* location.
5. “Nonconforming connection” designation may be issued for Category I through IV *permits* after an analysis and determination by the *City* that a *connection* cannot be made that conforms to *City* standards and a finding that the denial of a *connection* would leave the property without a reasonable means of access to the public road system. In such instances, the *permit* shall be noted as nonconforming and contain specific restrictions and provisions, including limits on the maximum vehicular use of the *connection*, the future availability of alternate means of *reasonable access* for which a *conforming connection permit* could be obtained, the removal of the nonconforming *connection* at the time the conforming access is available, and other conditions as necessary to carry out the provisions of this section.
6. “Variance connection” means a special nonconforming *permit*, issued for a location not normally permitted by *City* standards, after an engineering study demonstrates that the *connection* will not adversely affect the safety, *maintenance*, or operation of SR 522. This *permit* will remain valid until modified or revoked by the *City*.
7. “Median opening” includes openings requested for both new *connections* and existing *connections*. Openings may consist of either 1) a full opening in a continuous *median* for the specific purpose of allowing vehicles to make a left turn maneuver into or out of a property abutting the *highway*, to facilitate U-turns, or to allow for a vehicle to totally cross the *road*, or 2) a directional opening allowing for left turn maneuvers into the property and U-turn maneuvers, but not allowing for left turns or cross movements out of the property. [Ord. 06-0247 § 1.]

#### **12.85.050 Permit application submittal process.**

A. Driveway Connections That Are Part of a Land Use Application. If the *connection permit* is being requested as part of an underlying *development*, the issuance or denial of the *connection permit* shall be made in accordance with the type of decision applicable to the underlying land use *application(s)*.

B. Driveway Connections That Are Not Related to a Land Use Application. If the *connection permit* is being requested without relation to an underlying land use *application*, the *applicant* shall file for a *connection permit* with the *City*. The issuance or denial of the *connection permit* shall be made administratively by the *city manager*, subject to appeal pursuant to subsection (E) of this section.

C. Submittal Requirements for Connection Permits. If the new *development* will generate more than 10 peak hour trips or is a change in use, each *application* for a *connection permit*, whether accompanying an underlying land use *application* or not, shall include a traffic impact study, as described below, the *connection permit application*, and additional information as required by the *city manager*.

1. Traffic Impact Study. The traffic impact study, prepared by a *professional engineer*, shall contain information as noted in the *Road Standards* plus the following:

- a. An analysis of existing conditions including approved, but not yet built, *development* and applied for, but not yet approved, *development*.
- b. Trip generation, modal split, distribution, assignment, and level of service analysis for intersections, adjacent to or within 250 feet of any proposed access, during peak hours and time periods as required by the *city manager*.
- c. An analysis of three years of background growth, unless otherwise determined by the *city manager*.
- d. A traffic signal warrant analysis of the projected impact of the proposed *development* upon the affected transportation corridor or intersection as required by the *city manager*.
- e. Any additional information required by subsection (C)(2)(j)(5) of this section.

The traffic impact study shall be based on traffic counts obtained within the 12 months preceding the date the *application* is deemed complete. The traffic impact study levels of service and traffic operations analysis shall be consistent with the latest Highway Capacity Manual's methodology. The *city manager* reserves the right to require an *applicant* to provide additional data and/or analysis as part of the traffic impact study, where the *city manager* determines that additional information or analysis is required to implement the standards and requirements contained in this chapter. The *city manager* may waive the requirement for a traffic impact study, or limit the scope of analysis and required elements of a traffic impact study, where the *city manager* determines that the potential transportation impacts on the SR 522 corridor or any of its intersections have been adequately analyzed in prior research or reports and are not projected to cause a reduction in the operating level of SR 522.

2. Connection Permit Application and Information. The *applicant* shall submit a *connection permit application* and shall provide information as required by the *city manager*. A complete *application* shall also consist of the *connection* information specified in this section.

- a. All *connection* and roadway design documents for Category II and III *permits* shall bear the seal and signature of a *professional engineer*.
- b. The *applicant* shall provide the following information, unless the *city manager* determines that specific information will not be necessary. Additional information required of Category II, III, and IV *permit applications* is specified in this chapter. In all cases it would be prudent, prior to submittal of the *application*, for the *applicant* to inquire of the *City* whether the *application* needs additional information. The *city manager* reserves the right to request clarification or additional information during the *application* review process. Failure to provide the requested information within the time limits specified in the request shall result in termination of the *permit application*.
- c. Provide the current complete names, mailing addresses, and telephone numbers of the *property owner(s)*, the developer(s), the *applicant*, and the transportation and legal consultants representing the *applicant* (if any). If the *property owner* requests to have a representative sign the *application*, a notarized letter of authorization from the *applicant* shall be provided with the *application*. When the *owner* or *applicant* is a company, corporation, or other public agency, the name, address, and telephone number of the responsible officer shall be furnished. The names of all individuals signing the *application* and their titles shall be typed or printed directly below the signature.
- d. The ultimate planned property uses shall be indicated in sufficient detail to determine the appropriate *permit* classification. Estimated AWDVTE to be generated by the *development*, based on the planned property use, consistent with the latest trip generation information published by the ITE, Washington, D.C., shall be included as appropriate. If local or special trip generation rates are used instead of the ITE rates, the latest and best information shall be used and all documentation for the rate determination shall

be submitted with the *application*. For residential *developments* with 10 or fewer units, 10 trips per day per unit may be assumed.

e. The *application* shall include a plan to scale showing critical dimensions, location of the property, existing conditions, and character and extent of the proposal. The location of existing and proposed on-site *development* with respect to the existing and proposed driveway location(s) and SR 522 shall be shown. Minimum information on the plan shall include:

- (1) Street names.
- (2) Pavement type.
- (3) Cross section.
- (4) Posted speed limit.
- (5) The existence and location of any existing and/or future proposed public or private *roads* abutting or entering the property; the horizontal and vertical curvature of the *road(s)*, noting the location of existing and proposed *connections* and any other pertinent information.

f. Property Information.

- (1) Show the location of all existing and proposed buildings, and other structures, such as gasoline pumps, lights, trees, etc., with respect to the existing and proposed property and *right-of-way* lines.
- (2) Show any adjacent properties that are owned or controlled by the *applicant*, or in which the *applicant* has a financial interest, and an indication of whether the properties will be accessed by means of the proposed *connection(s)*.
- (3) Provide proof of legal ownership or legal easement.
- (4) Include a boundary survey, which may be waived for Category I *connections*, at the discretion of the *city manager*.
- (5) Any existing or proposed parcels segregated from the *applicant's* property for separate *development* shall be clearly designated on the plan.

g. Connection Location Information.

- (1) *Connection* location by *WSDOT* milepost and *highway* engineer's station, if available.
- (2) Location of the SR 522 centerline with respect to existing and proposed property lines.
- (3) Distance of proposed public or private access *connection* to intersecting *roads*.
- (4) Existing or proposed *median* openings (crossovers) and *connections* on all sides of SR 522 and other *roads* within 660 feet of the proposed *connection* location.
- (5) Location of existing or proposed public or private retaining walls, fences, poles, *sidewalks*, bike paths, drainage structures and easements, traffic control devices, fire hydrants, *facilities*, or other physical features, such as trees, landscaping, green belts, and wetlands that could affect driveway location.

h. Connection Design Information.

- (1) Proposed *connection* and approach improvements, including the driveway profile approaching SR 522, and the driveway width, radii, and angle to the *road*.
- (2) Existing and proposed grading.

(3) Drainage calculations and other pertinent data.

(4) Driveway, auxiliary lanes and crossover pavement design, including subgrade, base, surface materials, and thicknesses.

(5) Specific requirements for design information on individual Category I *permit applications* may be modified or waived, at the discretion of the *city engineer*.

i. Joint Driveway Use.

(1) If the driveway is to serve more than one property, the plan shall detail information for all properties using the *connection* and the *application* shall include copies of legally enforceable agreements of concurrence for all *property owners* on *joint use driveways*.

(2) *Joint use driveways* serving adjoining properties are required where feasible.

j. Additional Information for Category II and Category III Permits. The *city manager* may require the following additional information for each phase of the *development*. Prior to the submittal of the *application*, the *applicant* shall coordinate with the *city engineer* on the level of detail and the analysis techniques to be used.

(1) Circulation Plans. All parking, interior drives, and internal traffic circulation plans.

(2) Connection Users. All internal and external adjacent parcels which will use the requested *connection*. All existing and proposed connecting roadways and potential means of alternate access through the final build-out stage of *development* shall be shown on the plans submitted with the *application*.

(3) Traffic Control Devices and Illumination. Proposed traffic control devices and lighting locations.

(4) Sight Distance. Analysis of horizontal and vertical sight distance on SR 522 with respect to the proposed *connection*.

(5) Traffic Data and Analysis. Traffic data submitted by the *applicant* shall be signed and sealed by a qualified *professional engineer*. The *city manager* may require the following traffic study information:

(a) Turning Movements. Vehicle turning movements for present and future traffic conditions.

(b) Volume and Type. Amount and type of traffic that will be generated by the proposed *development* including a breakdown of anticipated peak hour traffic and an analysis of the impact on the level of service on the State highway.

(c) Parking and Circulation. Analysis of off-*street* parking and traffic circulation, including distances to secondary access points on the *connection* roadway and their impact on the operation of the State highway.

(d) Traffic Signal Data. If a traffic signal is requested, the following studies may be required: traffic signal warrants; phasing and timing analysis; signal progression analysis; signalization, signing, and lighting plans in compliance with *WSDOT* standards. A separate *WSDOT* traffic signal permit is required.

(e) Off-Site Improvements. A traffic analysis to determine the need for off-site related roadway and geometric improvements and mitigation requirements.

(f) Traffic Control Plan. A traffic control plan conforming to current standards set forth in the "Manual on Uniform Traffic Control Devices," documenting how the *permit* holder will provide for safe and efficient movement on the *State highway system* during the construction of the *connection*.



(6) Median Openings: New or modified *median* openings proposed as part of a new driveway *connection* shall be reviewed as part of the *permit application* review process. Request for the construction of new or modified *median* openings to serve existing permitted *connections* shall require a reevaluation of the location, quantity, design of existing *connections*, and traffic at the existing *connections*. The *property owner* must file a new *connection permit application*, for the proper *connection category*, showing the proposed new or modified *median* opening location and design and its relationship to the existing or modified driveway *connections*. Nothing contained herein shall be construed to prohibit the *City* from closing an existing *median* opening where operational or safety reasons require the action. The *City* shall notify affected *property owner*, *permit* holders and tenants in writing 30 days in advance of the closure of a *median* opening unless immediate closure is needed for safety or operational reasons.

(7) *WSDOT* review: a *WSDOT permit* or project review may be required by *WSDOT*. *Applicant* is responsible for contacting and coordinating with *WSDOT* on all *work* on SR 522.

3. Additional Information for Category IV *permits*. Category IV *permit applications* shall contain the specific dates that the *connection* is to be open and must contain assurances acceptable to the *City* that the shoulder, *curbing*, *sidewalks*, *bikeways*, *ditch*, *right-of-way*, and any other amenities will be restored to their original condition at the *permit holder's* expense upon closure of the temporary *connection*.

D. Variance Connection. The access standards above may be modified by the *city engineer* on the *connection permit* upon a showing by the *applicant* of the following:

1. Topography, *right-of-way*, existing construction or physical conditions, or other geographic conditions make it technically infeasible to meet current standards and an equivalent alternative, which can accomplish the same access management purpose, is available.
2. A minor change to a standard is required to address a specific design or construction problem which, if not enacted, will result in an unusual hardship.
3. An alternative standard is proposed which is equal to or superior to the current standards.
4. *Application* of standards to the *development* would be grossly disproportional to the impacts created to the public.

E. Appeals. The *applicant* may appeal the decision of the *city engineer* under the following conditions:

1. For driveway *connections* that are part of land use *application* review, the appeal of a conditioning or denial of a *connection permit* shall be in accordance with the procedures for an appeal of the underlying land use *application*.
2. For all other driveway *connection permit applications*, the appeal of a conditioning or denial of a *connection permit* shall be to the *city manager*. [Ord. 06-0247 § 1.]

#### **12.85.060 Fees and surety bond.**

A. Each *application* requires fees, imposed by the city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application* and for other functions necessary for the approval and use of the *permits*. B. Surety Bond. Prior to the beginning of construction of any *connection*, the *City* may require the *permit* holder to provide a surety bond as specified in WAC 468-34-020(3). [Ord. 06-0247 § 1.]

#### **12.85.070 Permit application – Review and conditions.**

A. Application Review, Processing, and Approval. *Applications* for all SR522 *connection permits* shall be submitted, in writing, to the *City*. The *application* process and documentation shall be in accordance with the administrative procedures developed by the *City* and shall contain whatever information, including plans and specifications, which the *City* shall require.

B. Permit Conditions. The *permit* requirements and provisions shall be binding on the *permit* holder, the *permit* holder's successors, heirs and assigns, the *permit application* signatories, and all future *owners* and occupants of the property. All long-term provisions exceeding the term of any bond shall be recorded onto the property title.

C. Nonconforming Connection Permits. The City may issue a nonconforming connection permit requiring a legally enforceable joint-use driveway when determined to be in the best interest of the City for restoring or maintaining the operational efficiency and safety of SR 522. All nonconforming connection *permits* shall specify conditions or limits including:

1. Traffic Volume. The *permit* shall specify maximum vehicular usage of the *connection*.
2. Future Alternate Access. The *permit* shall specify that a *conforming connection* be constructed when future alternate means of access become available, and that the nonconforming *connection* be removed.
3. Users. The *permit* shall specify the properties to be served by the *connection*, and any other conditions as necessary to carry out the provisions of managing the access to SR 522.

[Ord. 06-0247 § 1.]

#### **12.85.080 Construction requirements.**

A. Disruption of Traffic. All construction and/or *maintenance* within the SR 522 *right-of-way* shall conform to the provisions of the *connection permit*, the current "Manual on Uniform Traffic Control Devices (MUTCD)"; *WSDOT*'s current "Design Manual," and *WSDOT*'s current "Standard Specifications for Road, Bridge, and Municipal Construction." The *City* may require or restrict hours of construction to minimize disruption of traffic. If construction activity within the SR 522 *right-of-way* causes undue disruption of traffic or creates safety hazards, or if the construction activity is not in compliance with the traffic control specifications in the *permit*, the *city manager* shall advise the *permit* holder or the *permit* holder's *contractor* of the need for immediate corrective action and may order immediate suspension of all or part of the *work* if deemed necessary. Failure to comply with this provision may result in *permit* modification or revocation.

B. Traffic Signals and Other Traffic Control Devices.. The *permit* holder shall be responsible for coordinating with and securing any *WSDOT permits* needed for traffic signalization and regulatory signing and marking.

C. Connection Construction Inspection. For Category II and Category III *connections*, the *city manager* may require the *permit* holder, developer, or *owner* to provide inspection of construction and certification that *connection* construction is in accordance with *permit* provisions and appropriate *City* standards. [Ord. 06-0247 § 1.]

#### **12.85.090 Changes in property site use.**

The *connection permit* shall be issued to the *permit* holder for a particular type of land use generating specific projected traffic volumes at the final stage of proposed *development*. Any changes made in the use, intensity of *development*, type of traffic, or traffic flow of the property requires the *permit* holder, any assignee, or *property owner* to contact the *city manager* to determine whether further analysis is needed to determine if the change is significant and would require a new *permit* and modifications to the *connection*. An engineering study, signed and sealed by a *professional engineer*, may be required to document the extent of the change. If modification of the existing *connection* is required, based on a significant change as determined by the *city engineer*, the *permit* holder, his or her assignee, or the *property owner* shall obtain a new *permit* prior to the initiation of any on-site construction to the *connection* or to the property.

A. Significant Change. A significant change is one that would cause a change in the category of the *connection permit* or one that causes an operational, safety, or *maintenance* problem on SR 522 based on objective engineering criteria or available crash data. Such data shall be provided to the *property owner* and/or *permit* holder and tenant upon written request.

B. Notification. Failure to contact the *City* to determine the need for *connection* modifications or to apply for a new *permit* for such modifications prior to initiation of property improvements, land use changes or traffic flow alteration actions shall result in notification to the *property owner* and/or *permit* holder and tenant of intent to revoke the existing *permit* and closure of the *connection* to the property.



C. Costs. The *permit* holder shall be responsible for all costs associated with *connection* removal, *relocation*, or modification caused by increased or altered traffic flows necessitated by changes to the site, use, or to the nature of the business on the property. [Ord. 06-0247 § 1.]

**12.85.100 Permit modification and revocation – Closure of permitted connections.**

A. Revocation Criteria. All *connection permits* issued by the *City* remain valid until revoked. The *city manager* may initiate an action to revoke any *permit* if significant changes have occurred in the use, design, or traffic flow of the property or of SR 522, requiring the *relocation*, alteration, or closure of the *connection*; if the *connection* was not constructed at the location or to the design specified in the *permit*; if the *permit* provisions were not met; or if the *connection* causes a safety, *maintenance*, or operational problem on the *road*.

The *city manager* shall give written notice to the *permit* holder, the *permit* holder's successors or assigns, or the *property owner* with a copy to the occupant, for any *connection* found to be in noncompliance with the conditions of the *permit* or this chapter. The notice shall identify the deficiencies and request that they be corrected within 30 calendar days of the date of the notice. The notice shall further advise that the *City's* determination of noncompliance or deficiencies shall become final and conclusive 30 calendar days following the date of the notice unless the violations are corrected or an appeal is filed by the *permit* holder, *permit* holder's successor or assigns, or the *property owner*.

B. Costs. The *permit* holder, *permit* holder's successor or assignee, or *property owner* shall be responsible for the costs of closure due to revocation of a *connection permit*, except when the closure is required by changes to SR 522.

C. Emergency Action. This chapter shall not restrict the *city engineer's* right to take immediate remedial action, including the closure of a *connection*, if there is an immediate and serious danger to the public health, safety, and welfare.

D. Appeals. All appeals must be received within 30 calendar days of the date of the notice. Appeals shall include all contact information and justification for why the *City's* decision is in error or extenuating circumstances that merit reconsideration. Appeals shall be reviewed by the *city manager*. Appeal decisions shall be final and may not be further appealed. [Ord. 06-0247 § 1.]

**12.85.110 Access control classification.**

A. *WSDOT* has created an access control classification system consisting of five classes, where Class One is the least restrictive. *WSDOT* has designated SR 522 as Class Four. On all access classes, property access shall be located and designed to minimize interference with transit operations and/or high occupancy vehicle (HOV) use on SR 522 where such operations/uses exist or where such operations/uses are proposed. In such cases, if *reasonable access* is available from the *City* street system, primary property access shall be provided from the *City* street system rather than from SR 522.

B. SR 522, with its Class Four designation, has the following functional characteristics and access control standards:

1. Functional Characteristics. SR 522 has the capacity for moderate travel speeds and moderate traffic volumes for medium and short travel distances providing for inter-City, intra-City, and inter-community travel needs. There is to be a reasonable balance between direct access and mobility needs. Existing level of development of the adjoining land is intensive. SR 522 is distinguished by existing or planned nonrestrictive *medians*. Restrictive *medians* may be used as operational conditions warrant to mitigate turning, weaving, and crossing conflicts. Minimum *connection* spacing standards should be applied if adjoining properties are redeveloped.

2. Access Control Design Standards. The public roadway intersection spacing and driveway *connection* spacing distances specified are minimums. Greater distances may be required by the *city engineer* to provide desirable traffic operational and safety characteristics. If greater distances are required, the *city engineer* will document the reasons, based on traffic engineering principles, for such greater distances. Nonconforming *permits* may be issued allowing for less than minimum spacing where no other *reasonable access* exists. A *variance connection permit* may be issued where it can be substantiated by a traffic analysis, to the satisfaction of the *city engineer*, that allowing less than the minimum spacing or more than the maximum number of *connections* would not adversely affect the desired function of SR 522 and would not adversely affect the safety, *maintenance* or operation of SR 522.

a. Public Roadway Intersections. In the *City*, where higher volumes are present or growth that will require signalization is expected in the foreseeable future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Where feasible, major intersecting roadways that may ultimately require signalization shall be planned with a minimum of one-half mile spacing. Addition of all new *connections*, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified *professional engineer*.

b. Private Direct Access.

(1) Regardless of the number of access points that exist prior to any *development*, no more than one access shall be provided to an individual parcel or to contiguous parcels under the same *owner*, unless it can be shown that additional access points are necessary for the functionality of the *development*, would not adversely affect the desired function, safety, or operations on SR 522, and would not cause an unreasonable risk to public health, safety, and welfare.

(2) The minimum distance to another public or private access *connection* shall be 250 feet. Nonconforming *connection permits* may be issued to provide access to parcels whose *highway* frontage, topography, or location would otherwise preclude issuance of a *conforming connection permit*.

(3) Variance *permits* may be allowed if conditions warrant. These conditions must be demonstrated to the satisfaction of the *city engineer* by a traffic analysis that is signed and sealed by a qualified *professional engineer*.

3. Corner Clearance. Corner clearances for *connections* shall meet or exceed the minimum *connection* spacing requirements. A single *connection* may be placed closer to the intersection in accordance with the following criteria:

a. If, due to property size, corner clearance standards cannot be met, and where *joint use driveways* meeting or exceeding the minimum corner clearance standards cannot be obtained, or is determined by the *city engineer* to be not feasible because of conflicting land use or conflicting traffic volumes or operational characteristics, then the following minimum corner clearance criteria may be used:

**Corner Clearance at Intersections**

| With Restrictive Median    |                    |                |
|----------------------------|--------------------|----------------|
| Position                   | Access Allowed     | Minimum (Feet) |
| Approaching intersection   | Right in/right out | 115            |
| Approaching intersection   | Right in only      | 75             |
| Departing intersection     | Right in/right out | 230            |
| Departing intersection     | Right out only     | 100            |
| Without Restrictive Median |                    |                |
| Position                   | Access Allowed     | Minimum (Feet) |
| Approaching intersection   | Full access        | 230            |
| Approaching intersection   | Right in only      | 100            |
| Departing intersection     | Full access        | 230            |
| Departing intersection     | Right out only     | 100            |

b. Additional Conditions.

(1) There shall be no more than one *connection* per *abutting property* on SR 522 regardless of minimum *connection* spacing unless it can be shown that additional access points are necessary for the functionality of the *development*, would not adversely affect the desired function, safety, or operations on SR 522, and would not cause an unreasonable risk to public health, safety, and welfare.

(2) When *joint use driveways* or alternate accesses meeting or exceeding the minimum corner clearance standards becomes available, the *permit* holder shall close the permitted *connection*, unless the *permit* holder shows to the *city engineer's* satisfaction that such closure is not feasible. [Ord. 06-0247 § 1.]

## Chapter 12.90

### TRANSPORTATION BENEFIT DISTRICT

Sections:

- 12.90.010 Transportation benefit district established.
- 12.90.020 Governing board.
- 12.90.030 Authority of the district.
- 12.90.040 Use of funds.
- 12.90.050 Revenue sources.
- 12.90.060 Dissolution of district.

**12.90.010 Transportation benefit district established.**

There is created a transportation benefit district to be known as the Kenmore transportation benefit district with geographical boundaries comprised of the corporate limits of the *City* as they currently exist or as they may exist following future annexations. [Ord. 12-0339 § 1.]

**12.90.020 Governing board.**

A. The governing board of the transportation benefit district shall be the Kenmore city council, which shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and this chapter.

B. The treasurer of the transportation benefit district shall be the *City* director of finance.

C. The board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1).

D. The board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2). [Ord. 16-0424 § 3; Ord. 12-0339 § 1.]

**12.90.030 Authority of the district.**

The board shall have and may exercise any powers provided by law to fulfill the purpose of the Kenmore transportation benefit district. [Ord. 12-0339 § 1.]

**12.90.040 Use of funds.**

The funds generated by the transportation benefit district may be used for any purpose allowed by law including to operate the district and to make transportation improvements that are consistent with existing State, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels pursuant to Chapter 36.73 RCW. The transportation improvements funded by the district shall be made in an effort to preserve and maintain transportation infrastructure, improve public safety, or implement *city projects* identified in Kenmore's *transportation improvement program*. [Ord. 12-0339 § 1.]

**12.90.050 Revenue sources.**

The board shall have the authority to establish all fees and other revenue sources authorized by Chapter 36.73 RCW, consistent with RCW 36.73.065. [Ord. 12-0339 § 1.]

**12.90.060 Dissolution of district.**

The transportation benefit district shall be dissolved when all indebtedness of the district has been retired and when all of the district's anticipated responsibilities have been satisfied. [Ord. 12-0339 § 1.]

## Chapter 12.95

### RIGHT-OF-WAY VACATIONS

#### Sections:

|                           |  |
|---------------------------|--|
| <a href="#">12.95.010</a> | Purpose.                               |
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| <a href="#">12.95.030</a> | Applicability.                         |
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| <a href="#">12.95.070</a> | Date of public hearing.                |
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| <a href="#">12.95.170</a> | Title to vacated street or alley.      |
| <a href="#">12.95.180</a> | Vested rights not affected.            |
| <a href="#">12.95.190</a> | City use of revenue.                   |

#### **12.95.010 Purpose.**

This chapter establishes the procedures and criteria that the *City* will use to decide upon vacation of *roads*, alleys, or any part thereof. This chapter is intended to implement the authority granted to the *City* pursuant to Chapter 35.79 RCW and RCW 35A.47.020. In case of a conflict between this chapter and those statutes, the statutory provisions shall prevail.

#### **12.95.020 Definitions**

A. "Subject right-of-way" means the *road* or alley, or portions thereof, sought to be vacated.

#### **12.95.030 Applicability.**

This chapter applies to requests for the vacation of *roads*, alleys and public easements relating to said roads or alleys, or any part thereof. This chapter shall not apply to vacation or termination of other types of public easements.

#### **12.95.040 Initiation of proceedings.**

A vacation may be initiated by the city council or by *abutting property owners* pursuant to RCW 35.79.010.

#### **12.95.050 Petition for vacation.**

The *owners* of an interest in any real estate abutting upon any *road* or alley who may desire to vacate the *street* or alley, or any part thereof, may petition the city council. The petition shall be in a form prescribed by the *city engineer* and shall contain the following information:

A. Upon receiving a petition signed by owners of more than 67 percent of the property abutting upon the part of such *street* or ally sought to be vacated, petitioners shall submit a complete vacation *application* to the City. A vacation *application* shall contain the name, address, email and telephone number of a representative for the petitioners, with supporting documentation from each petitioner on forms provided by the *department*. The 67 percent threshold shall be determined per Section 12.95.090.

B. A legal description of the area to be vacated prepared by a licensed surveyor in the State of Washington.

- C. Site map showing all property lines and the *subject right-of-way* highlighted, scaled as required by the *department*.
- D. Verification of ownership and providing a legal description of the property owned by each petitioner.
- E. A copy of the King County assessor's map identifying all *property owners* and parcel ID numbers.
- F. A completed request for public *utility* review.
- G. The vacation *application* fee as established by resolution.
- H. An appraisal of each *abutting property* of the *subject property* prepared by a WSDOT approved appraiser.
- I. A signed agreement to pay the cost of an appraisal review as provided for in Section [12.95.170](#);
- J. The petition shall discuss the criteria set forth in KMC 12.95.110; and
- K. Any additional information or material that the *department* determines is reasonably necessary for the city council to consider the requested vacation.

**12.95.060 Council resolution for vacation.**

The city council may initiate, by resolution, vacation procedures. The resolution shall contain a legal description of the *subject right-of-way* and shall be filed with the city clerk.

**12.95.070 Date of public hearing.**

Upon receiving a petition signed by owners of more than two-thirds of the property abutting upon the part of such *street* or ally sought to be vacated and a complete *application*, the city council by resolution shall fix a time and date when the city council will hold a public hearing on the proposed vacation. If vacation is initiated by the city council, the resolution initiating the vacation shall fix a time and date on when the city council will hold a public hearing on the vacation. The hearing shall not be more than sixty days nor less than twenty days after the date of passage of such resolution. The two-thirds measure shall be determined pursuant to Section 12.95.090.

**12.95.080 Public notification of hearing.**

A. The *City* shall prepare a public notice containing the following information:

- 1. A statement that a petition to vacate the *subject right-of-way* has been filed with the city and will be considered by the city council or that the city council has initiated a street vacation of the *subject right-of-way*;
- 2. A statement of the time and place of the public hearing before the city council;
- 3. A location description in non-legal language along with a vicinity map that identifies the *subject right-of-way* proposed to be vacated;

B. At least twenty calendar days before the public hearing, the *City* shall distribute the public notice as follows:

- 1. In all cases where the proceeding is initiated by resolution of the city council, in addition to the notice required herein, there shall be given by mail at least fifteen days before the date fixed for the hearing, a similar notice to the owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any *street* or alley or any part thereof sought to be vacated, as shown on the rolls of the county treasurer, directed to the address thereon shown.
- 2. A copy will be published in the official newspaper of the *City*, except no vicinity map shall be required;
- 3. Posted in a conspicuous location at the three most public places within the *City*;

4. A copy will be posted on the *subject right-of-way* in the manner set out in subsection C of this section.

C. Public Notice Sign. The city clerk shall provide for and have public notice signs posted at least twenty calendar days before the public hearing as follows:

1. The posted notice shall be designed and constructed in accordance with the administrative procedures developed by the *department*. A copy of the public notice described in subsection A of this section and the vicinity map shall be attached to each sign.
2. One posted notice shall be located at each public access location and placed so that the sign(s) are conspicuously visible from an improved public *right-of-way* not subject to the vacation request. The *department* shall approve the location of each sign.
3. All posted notices shall be removed after the final public hearing.

**12.95.090 Objection by property owners.**

A. If fifty percent or more of the *abutting property owners* file written objections to a city council initiated vacation with the city clerk, prior to the time of the public hearing, then the *City* shall be prohibited from proceeding with the vacation. The calculation of each *abutted property's* percentage shall be based on the following:

1. Roads and alleys: the total length of each individual property linear footage abutting the *subject right-of-way* over the total perimeter length of the *subject right-of-way*.
2. Public easements: the square footage of the *subject right-of-way* on each individual property over the total area of the *subject right-of-way*.

**12.95.100 Public hearing procedures.**

A. The city council shall hold a public hearing on each street vacation pursuant to KMC 12.95.070 and 12.95.080.

B. The city council may continue the hearing if the city council determines that it needs more information on the vacation. If, during the hearing, the city council continues the hearing to a specific time and place on the vacation, no further notice of the hearing need be given.

C. The *department* shall provide an analysis of the requested vacation in relation to the provisions of this chapter and the applicable provisions of the comprehensive plan with a recommendation on the requested vacation.

D. Any interested person may participate in the public hearing in either or both of the following ways:

1. By submitting written comments to the city council by delivering the comments to the city clerk as noted in the public notice prior to the hearing; and
2. By appearing in person, or through a representative, at the hearing and making oral comments directly to the city council.

**12.95.110 Criteria for granting street vacation.**

A. The decision on a vacation *application* is a legislative determination. The city council may, at its discretion, vacate a *road* or alley or part thereof if it determines that vacation is in the public interest and that:

1. The *subject right-of-way* is not currently necessary for travel or other *road* purposes, nor likely to be in the future;
2. The vacation request takes into account existing *facilities* and other uses into consideration per KMC 12.95.130; and
3. No property is denied access to the public *right-of-way* as a result of the vacation.

B. The city council may consider any other fact or issue it deems relevant when deciding whether to vacate a *road*, alley.



C. If the City Council determines to grant the petition or any part thereof, the city shall be authorized to vacate such *street*, or alley, or any part thereof, and the ordinance may provide that it shall not become effective until the owners of property abutting upon the *street* or alley, or part thereof so vacated, shall compensate the City in an amount which does not exceed one-half the appraised value of the *subject right-of-way*. If the *street* or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the city may require the owners of the property abutting the *street* or alley to compensate the city in an amount that does not exceed the full appraised value of the area vacated.

**12.95.120 Limitations on vacations.**

Vacations of *roads* abutting bodies of water shall be limited and follow the procedures set forth in RCW 35.79.035.

**12.95.130 Right to reserve easements.**

In vacating a *road* or alley governed by this chapter, the city council may retain an easement or the right to exercise and grant any easements in respect to the vacated land for construction, repair, and *maintenance* of public *facilities* and services.

**12.95.140 Final decision of vacation.**

A. Following the public hearing, the city council shall either:

1. Adopt an ordinance granting the vacation, subject to conditions the city council deems necessary; or
2. Adopt a motion denying the vacation.

B. The ordinance may be conditioned as follows:

1. Receipt of monetary compensation pursuant to RCW 35.79.030 and KMC 12.95.170.
2. Receipt of *utility* easements, if any, per KMC 12.95.130.
3. Other conditions deemed appropriate by the city council.

C. Within 14 calendar days of the city council's approval of the ordinance or from the date all conditions of the ordinance are met, whichever comes later, the ordinance shall be recorded by the city clerk in the office of the auditor of the county in which the vacated land is located.

**12.95.150 Appraisal reviews.**

The *city manager* is authorized to obtain appraisals from qualified, independent appraisal reviewers as part of the *application* review.

**12.95.160 Fees and costs.**

The *city manager* is authorized to collect fees for the following:

A. Application fee: The cost for reviewing, noticing, and preparing documentation for city council review shall be paid by the *applicant*. Fees shall be as determined by the city council by resolution;

B. Appraisal review cost: The cost for an appraisal review shall be paid by the *applicant*. Cost shall be the direct invoice cost for the appraisal review;

C. Subject right-of-way cost: The cost for the *subject right-of-way* shall be the full appraised value of the *subject right-of-way* area as determined by the *City's* appraisal reviewer, the calculation for each abutting property owner based upon percentage calculations pursuant to Section 12.95.090.

**12.95.170 Title to vacated street or alley.**

Title of *subject right-of-way* shall be pursuant to RCW 35.79.040.



**12.95.180 Vested rights not affected.**

No vested rights shall be affected by the provisions of this chapter.

**12.95.190 City use of revenue.**

One half of the revenue received by the *City* as compensation for the vacated *right-of-way* must be dedicated to the acquisition, improvement, development, or related *maintenance* of public open space or transportation capital projects within the *City*.



## Council Business Agenda Item

### City of Kenmore, WA

|  |   |
|--|---|
| <p><b>Subject/Topic:</b> Purchase of a new vehicle for Environmental Services Division staff.</p> <p><b>Proposed Council Action/Motion:</b><br/>Authorize City Manager to purchase a 2023 Ford Transit (EV model) for Environmental Services Division staff in an amount of approximately \$58,612.64 plus fees.</p>   | <p><b>For Council Meeting Agenda of:</b> May 22, 2023</p> <p><b>Department:</b> Environmental Services</p> <p><b>Prepared by:</b> Richard Sawyer, ES Director</p> <p><b>Initial &amp; Date</b></p> <p><b>Approved by Department Head:</b> ____RS____</p> <p><b>Approved by City Attorney:</b> ____NA____</p> <p><b>Approved by Finance Director:</b> ____MM____</p> <p><b>Approved by City Manager:</b> ____RK____</p> <p><b>Exhibits/Attachments:</b><br/>NA</p> |
| <p><b>Information/Background:</b></p> <p>The approved 2023-2024 biennium budget added a new Environmental Services Technician position in the Public Works Department, which requires the addition of a new vehicle to the city's fleet. Under the direction of the City's Climate Action Plan, the new vehicle will be an electric powered Ford Transit Cargo Van. The vehicle will primarily be used for conducting surface water management related tasks such as surface water facility inspections, responding to spills/illicit discharges and supporting education and outreach events.</p> |   |
| <p><b>Fiscal Consideration:</b></p> <p>The cost of the vehicle is approximately \$58,612.64 plus fees. Funds for the vehicle will be provided by the Surface Water Management Fund.</p>  |   |
| <p><b>Council Goal/Budget being Addressed:</b></p> <p>Council's 2023-2024 Priority #1 "Implement the Adopted Climate Action Plan and Promote Environmental Stewardship, including Water, Air, Forest, and Habitat Restoration and Preservation."</p>   |   |



## City Council Agenda Bill City of Kenmore, WA

|   |  |                                     |                      |                                   |                     |                                      |             |                                  |            |
|---|--|-------------------------------------|----------------------|-----------------------------------|---------------------|--------------------------------------|-------------|----------------------------------|------------|
| <p><b>Subject/Topic:</b></p> <p>Aquatic Center Feasibility Study Contract</p><br><br><br><br><br><p><b>Proposed Council Action/Motion:</b></p> <p>Approve Contract #23-C2898 and authorize the City Manager to execute the contract</p>   | <p><b>For Council Meeting Agenda of:</b> 5/22/23</p> <p><b>Department:</b> City Manager's Office</p> <p><b>Prepared by:</b> Garrett Oppenheim</p><br><table style="width: 100%;"> <tr> <td style="width: 70%;"><b>Approved by Department Head:</b></td> <td style="width: 30%;"><u>SLL</u>, 5/11/23</td> </tr> <tr> <td><b>Approved by City Attorney:</b></td> <td><u>DR</u>, 5/11/23</td> </tr> <tr> <td><b>Approved by Finance Director:</b></td> <td>MM, 5/11/23</td> </tr> <tr> <td><b>Approved by City Manager:</b></td> <td><u>RGK</u></td> </tr> </table> <p><b>Exhibits/Attachments:</b></p> <p>Contract #23-C2898</p> | <b>Approved by Department Head:</b> | <u>SLL</u> , 5/11/23 | <b>Approved by City Attorney:</b> | <u>DR</u> , 5/11/23 | <b>Approved by Finance Director:</b> | MM, 5/11/23 | <b>Approved by City Manager:</b> | <u>RGK</u> |
| <b>Approved by Department Head:</b>   | <u>SLL</u> , 5/11/23   |                                     |                      |                                   |                     |                                      |             |                                  |            |
| <b>Approved by City Attorney:</b>   | <u>DR</u> , 5/11/23  |                                     |                      |                                   |                     |                                      |             |                                  |            |
| <b>Approved by Finance Director:</b>  | MM, 5/11/23  |                                     |                      |                                   |                     |                                      |             |                                  |            |
| <b>Approved by City Manager:</b>  | <u>RGK</u>   |                                     |                      |                                   |                     |                                      |             |                                  |            |
| <p><b>Summary:</b></p> <p>City staff negotiated this contract for a siting and feasibility study that will search for locations in Kenmore and our neighboring cities to site an aquatic center. The City and its partners selected consultant NAC, Inc. (NAC) through a competitive process. NAC will perform a study over the course of 2023, provide a report, and present their findings to the City Council in November.</p>   |  |                                     |                      |                                   |                     |                                      |             |                                  |            |
| <p><b>Information/Background:</b></p> <p>The City of Kenmore entered two partnerships in late 2021, one with Kirkland and the other with Shoreline and Lake Forest Park, seeking grants from King County for an aquatic center feasibility study to replace the dilapidated Forward Thrust pools. In October 2022, we received both grants for a total of \$200,000 and signed agreements with the County to the effect of the study being completed by November 2024. Kenmore took the lead as our four cities consolidated our efforts so as to not require duplicate work from the consultant. We issued an RFQ in February and received four responses. Staff from each partner city interviewed three candidates and unanimously chose NAC to perform the study.</p> |  |                                     |                      |                                   |                     |                                      |             |                                  |            |
| <p><b>Fiscal Consideration:</b></p> <p>The total cost of the contract with NAC is \$200,000. The \$200,000 County grant will fully pay for the cost of this contract. The City of Kenmore will act as the agent for the other three cities, meaning the City will pay the contract invoices and obtain direct reimbursement from the County.</p>  |  |                                     |                      |                                   |                     |                                      |             |                                  |            |
| <p><b>City Council Priority or Budget Objective Being Addressed:</b></p> <p>4. Diversity, Equity, Inclusion, and Accessibility</p> <p>9. Foster community engagement and participation.</p> <p>10. Foster and create fun.</p>   |  |                                     |                      |                                   |                     |                                      |             |                                  |            |

**City of Kenmore Contract #: 23-C2898**

Authorized Amount:

Date Start: May 25, 2023

Date End: December 31, 2023

**CONSULTANT SERVICES AGREEMENT  
Regional Aquatic Center Feasibility Study**

THIS AGREEMENT is entered into by and between the City of Kenmore, Washington, a municipal corporation ("City") and NAC, Inc. (NAC), organized under the laws of the State of WA, located and doing business at 2025 1<sup>st</sup> Ave, Suite 300, Seattle, WA, 98121-3131, 206-441-4522, & 1203 W Riverside Ave, Spokane, WA 99201, Keith Comes, Principal Architect (hereinafter the "Consultant").

**RECITALS:**

WHEREAS, the City desires to have certain services performed for its residents; and

WHEREAS, the City has selected the Consultant to perform such services pursuant to certain terms and conditions; and

NOW, THEREFORE, in consideration of the mutual benefits and conditions set forth below, the parties agree as follows:

**AGREEMENT:**

**1. Scope of Services to be Performed by Consultant.**

The Consultant shall perform those services described on Exhibit "A," which is attached hereto and incorporated herein by this reference as if set forth in full. In performing such services, the Consultant shall at all times comply with all federal, state, and local statutes, rules and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith. The Consultant shall perform the services diligently and completely and in accordance with professional standards of conduct and performance. The Consultant shall request and obtain prior written approval from the City if the scope or schedule is to be modified in any way.

**2. Compensation and Method of Payment.** The City shall pay the Consultant for services rendered according to the rates and methods set forth below. The Consultant shall request payment for work performed using the billing invoice form at Exhibit "C."

X According to the rates set forth in Exhibit "B."

X A sum not to exceed **\$200,000**. Consultant shall invoice upon the completion of discrete tasks and be paid proportionate to the percentage of the task completed.

\_\_\_ Other (describe): \_\_\_\_\_

The City shall pay the Consultant for services rendered within ten (10) days after City Council voucher approval. However, if the City objects to all or any portion of an invoice, it shall notify Consultant and reserves the option to only pay that portion of the invoice not in dispute. In that event, the Parties will immediately make every effort to settle the disputed portion.

The City further reserves the right to direct the Consultant's compensated services before reaching the maximum amount.

The Consultant shall complete and return to the City Exhibit "D," federal tax Form W-9, prior to or along with the first billing invoice.

**3. Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing on May 25, 2023 and ending December 31, 2023 unless sooner terminated under the provisions of this Agreement. Time is of the essence of this Agreement in each and all of its provisions in which performance is required.

**4. Ownership and Use of Documents.**

A. *Ownership.* Any records, files, documents, drawings, specifications, data, or information, regardless of form or format, and all other materials produced by the Consultant in connection with the services provided to the City, shall be the property of the City whether the project for which they were created is executed or not.

B. *Records preservation.* Consultant understands that this Agreement is with a government agency and thus all records created or used in the course of Consultant's work for the City are considered "public records" and are subject to disclosure by the City under the Public Records Act, Chapter 42.56 RCW ("the Act"). Consultant agrees to safeguard and preserve records in accordance with the Act. The City may be required, upon request, to disclose the Agreement, and the documents and records submitted to the City by Consultant, unless an exemption under the Public Records Act applies. If the City receives a public records request and asks Consultant to search its files for responsive records, Consultant agrees to make a prompt and thorough search through its files for responsive records and to promptly turn over any responsive records to the City's public records officer. The City agrees to pay the Consultant at Consultant's hourly rate for an intern (i.e., \$65 per hour), in an amount not to exceed \$650.00 to perform and complete a search for all responsive public records, as defined by RCW 42.56.010, and produce them to the City. Consultant agrees during the performance of this contract to organize all of the files related to the subject of the contract in such a way that they are readily and easily obtainable should such a public records request be received.

**5. Independent Consultant.** The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Consultant, or any employee of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives, and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

**6. Indemnification.** Consultant shall defend, indemnify, and hold the City, its officers, officials, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorneys' fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

The provisions of this section shall survive the expiration or termination of this Agreement.

**7. Insurance.** The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. *Minimum Scope of Insurance.* Consultant shall obtain insurance of the types described below:

- i. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- ii. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent Consultants and personal injury and advertising injury. The City shall be named as an insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
- iii. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- iv. Professional Liability insurance appropriate to the Consultant's profession.

B. *Minimum Amounts of Insurance.* Consultant shall maintain the following insurance limits:

- i. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- ii. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
- iii. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. *Other Insurance Provision.* The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

D. *Acceptability of Insurers.* Insurance is to be placed with insurers with a current A.M. Best rating of not less than A-VII.

E. *Verification of Coverage.* The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

F. *Notice of Cancellation.* The Consultant shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.

G. *Failure to Maintain Insurance.* Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

H. *No Limitation.* Consultant's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

**8. Record Keeping and Reporting.**

A. The Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. The Consultant shall also maintain such other records as may be deemed necessary by the City to ensure proper accounting of all funds contributed by the City to the performance of this Agreement.

B. The foregoing records shall be maintained for a period of seven (7) years after termination of this Agreement unless permission to destroy them is granted by the Office of the Archivist in accordance with Chapter 40.14 RCW and by the City.

**9. City's Right of Inspection and Audit.**

A. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

B. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit by the City during the performance of this Agreement. All work products, data, studies, worksheets, models, reports, and other materials in support of the performance of



the service, work products, or outcomes fulfilling the contractual obligations are the products of the City.

**10. Consultant to Maintain Records to Support Independent Contractor Status.**

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

**11. Work Performed at the Consultant's Risk.** The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

**12. Termination.**

A. The City reserves the right to terminate or suspend this Agreement at any time, with or without cause, upon seven (7) days' prior written notice. In the event of termination or suspension, all finished or unfinished documents, data, studies, worksheets, models, reports, or other materials prepared by the Consultant pursuant to this Agreement shall promptly be submitted to the City.

B. In the event this Agreement is terminated or suspended, the Consultant shall be entitled to payment for all services performed and reimbursable expenses incurred to the date of termination.

C. This Agreement may be canceled immediately if the Consultant's insurance coverage is canceled for any reason, or if the Consultant is unable to perform the services called for by this Agreement.

D. The Consultant reserves the right to terminate this Agreement with not less than fourteen (14) days written notice, or in the event that outstanding invoices are not paid within sixty (60) days.

E. This provision shall not prevent the City from seeking any legal remedies it may otherwise have for the violation or nonperformance of any provisions of this Agreement.

**13. Force Majeure.** Notwithstanding anything to the contrary in this Agreement, any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war,

terrorist acts, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, governmental laws, regulations or restrictions, civil commotions, Casualty, actual or threatened public health emergency (including, without limitation, epidemic, pandemic, famine, disease, plague, quarantine, and other significant public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization, breaches in cybersecurity, and other causes beyond the reasonable control of the party obligated to perform, regardless of whether such other causes are (i) foreseeable or unforeseeable or (ii) related to the specifically enumerated events in this paragraph (collectively, a "**Force Majeure**"), shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage. To the extent this Agreement specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure. Provided however, that the COVID-19 pandemic shall not be considered a Force Majeure unless constraints on a Party's performance that result from the pandemic become substantially more onerous after the effective date of this Agreement.

**14. Discrimination Prohibited.** The Consultant shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Consultant under this Agreement, on the basis of race, color, religion, creed, sex, sexual orientation, age, national origin, marital status, presence of any sensory, mental or physical disability, or other circumstance prohibited by federal, State or local law or ordinance, except for a bona fide occupational qualification.

**15. Assignment and Subcontract.** The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement that are not identified in Consultant's Statement of Qualifications without the prior written consent of the City. Any assignment made without the prior approval of the City is void.

**16. Conflict of Interest.** The Consultant represents to the City that it has no conflict of interest in performing any of the services set forth in Exhibit "A." In the event that the Consultant is asked to perform services for a project with which it may have a conflict, Consultant will immediately disclose such conflict to the City.

**17. Confidentiality.** All information regarding the City obtained by the Consultant in performance of this Agreement shall be considered confidential. Breach of confidentiality by the Consultant shall be grounds for immediate termination.

**18. Non-Appropriation of Funds.** If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will so notify the Consultant and shall not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. This Agreement will terminate upon the completion of all remaining services for which funds are allocated. No penalty or expense shall accrue to the City in the event that the terms of the provision are effectuated.

**19. Employment of State Retirees.** The City is a "DRS-covered employer" which is an organization that employs one or more members of any retirement system administered by the

Washington State Department of Retirement Systems (DRS). Pursuant to RCW 41.50.139(1) and WAC 415-02-325(1), the City is required to elicit on a written form if any of the Consultant's employees providing services to the City retired using the 2008 Early Retirement Factors (ERFs), or if the Consultant is owned by an individual who retired using the 2008 ERFs, and whether the nature of the service and compensation would result in a retirement benefit being suspended. Failure to make this determination exposes the City to significant liability for pension overpayments. As a result, before commencing work under this Agreement, Consultant shall determine whether any of its employees providing services to the City or any of the Consultant's owners retired using the 2008 ERFs, and shall immediately notify the City and shall promptly complete the form provided by the City after this notification is made. This notification to DRS could impact the payment of retirement benefits to employees and owners of Consultant. Consultant shall indemnify, defend, and hold harmless the City from any and all claims, damages, or other liability, including attorneys' fees and costs, relating to a claim by DRS of a pension overpayment caused by or resulting from Consultant's failure to comply with the terms of this provision. This provision shall survive termination of this Agreement.

**20. Entire Agreement.** This Agreement contains the entire agreement between the parties, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either of the parties. If there is a conflict between the terms and conditions of this Agreement and the attached exhibits, then the terms and conditions of this Agreement shall prevail over the exhibits. Either party may request changes to the Agreement. Changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

**21. Notices.** All notices or other communications required or permitted under this Agreement shall be in writing and shall be (a) personally delivered, in which case the notice or communication shall be deemed given on the date of receipt at the office of the addressee; (b) sent by registered or certified mail, postage prepaid, return receipt requested, in which case the notice or communication shall be deemed given three (3) business days after the date of deposit in the United States mail; or (c) sent by overnight delivery using a nationally recognized overnight courier service, in which case the notice or communication shall be deemed given one business day after the date of deposit with such courier. In addition, all notices shall also be emailed, however, email does not substitute for an official notice. Notices shall be sent to the following addresses:

Notices to the City of Kenmore shall be sent to the following address:

City Clerk  
City of Kenmore  
18120 68<sup>th</sup> Ave. NE  
Kenmore, Washington 98028-0607

Notices to the Consultant shall be sent to the following address:

NAC Architecture  
 2025 1<sup>st</sup> Ave, Suite 300  
 Seattle, WA 98121-3131  
 Phone No.: 206-441-4522  
 Email: kcomes@nacarchitecture.com

**22. Applicable Law; Venue; Attorneys' Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees and costs of suit, which shall be fixed by the judge hearing the case and such fee shall be included in the judgment.

**23. Compliance with Laws.** The Vendor agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Vendor's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of those operations.

**24. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Agreement.

**25. Severability.** Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part with a valid and enforceable provision that comes as close as reasonably possible to expressing the intent of the stricken provision.

IN WITNESS WHEREOF, the City and the Consultant have executed this Agreement as of the dates listed below.

**CONSULTANT**

**CITY OF KENMORE**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

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Kenmore City Attorney's Office

## EXHIBIT A

**Scope of Services to be Provided by Consultant.** The Consultant shall furnish services including, but not limited to, the following outlined here or attached separately.

### **Project Initiation**

- a. Develop Scope of Work
- b. Finalize Agreement
- c. Design Team to submit Information Request of prior documents to Steering Committee (information will be used to complete the Gap Analysis)

### **Project Kick-Off Meeting – May 2023 (exact date TBD)**

Team responsibility: NAC/BKA

- a. Conduct a Kick-off meeting with Steering Committee
- b. Meeting to be in-person with NAC, virtual with BKA
- c. Confirm communication protocols (points of contact for Steering Committee and Design Team)
- d. Identify overall and intermediate goals and objectives for the study
- e. Review proposed schedule and Scope of Work
- f. Review Information Request submitted by Design Team
- g. Discuss key stakeholders and Public Engagement priorities
- h. Review attributes of proposed sites and discuss potential additional site locations
- i. Review potential options for funding strategies

### **Task 1: Gap Analysis & Market Analysis – Due by May 31<sup>st</sup>, 2023**

Team responsibility: NAC/BKA

- a. Review information provided by the Steering Committee as requested by the Design Team (prior community surveys, needs assessments, feasibility reports, market studies, master plans, current taxing mechanisms, etc.)
- b. Complete Gap Analysis Report (summary of previous background information and any necessary information needed to proceed)
- c. Identify service areas for individual municipalities/sub-regions and collective service area for entire region
- d. Document key demographic indicators including median age, median household income, household budget expenditures, recreation spending potential index
- e. Analyze demographics within service areas including age distribution, distribution growth/decline, race and ethnicity, tapestry
- f. Assemble National Sporting Goods Association participation data, unique participation data and overlay onto demographics
- g. Document market potential for swimming participation and aquatic facility trends within market area
- h. Identify alternative aquatic providers in the area
- i. Complete Market Analysis Report

### **Deliverables:**

- Gap Analysis Report
- Market Analysis Report
- Monthly virtual progress meeting with Steering Committee

### **Task 2: Public Engagement – Ongoing May 15<sup>th</sup> thru November 30<sup>th</sup>, 2023**

Team responsibility: NAC/BKA/WTI

- a. Confirm goals and priorities for public engagement (gathering information and learning from residents, building support for the projects, inform the communities)

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- b. Establish list of critical information to be obtained through public input (travel distance, limitations for financial/tax support, user fees, etc.)
- c. Determine the key stakeholder groups with consideration of diversity, inclusion, and equity
- d. Develop communications & outreach plan with Steering Committee
- e. As a basis for establishing fee, the Scope of Work for Public Engagement includes:
  - i. 1 survey (using Survey Monkey...which is not a statistically valid survey)
  - ii. 2 in-person public/open house meetings OR in-person participation at 2 community events (with NAC, WTI at 1 meeting)
  - iii. 2 back-to-back days (afternoon then morning) of in-person stakeholder/focus group meetings (with NAC and BKA, WTI at Aquatic focus group)
- f. Create outreach materials for in-person engagement events and for posting of digital information by the four partner cities or others
- g. Translate outreach materials in multiple languages (using NAC in-house and other translation services)
- h. Findings of the public engagement process are to influence or be incorporated in the site assessment, programming, and funding strategy tasks

Deliverables:

- Communications & Outreach Schedule
- Outreach graphics, informational text, & survey
- Summary report of Public Engagement findings
- Monthly virtual progress meeting with Steering Committee

**Task 3: Site Identification & Assessment – May 15<sup>th</sup> through July 14<sup>th</sup>, 2023**

Team responsibility: NAC/Red Barn/Berger

- a. Confirm list of potential site locations
- b. Identify up to 2 additional potential site locations in addition to those listed in the RFQ and identified by the Steering Committee
- c. Develop weighted criteria for site evaluation including community perceptions and support for proposed sites
- d. Criteria for site evaluation is limited to factors that can be observed visually or determined from review of available documents (if any)
- e. Provide a comparison analysis for 6 sites, 3 in each sub-region
- f. Identify one preferred site in each sub-region considering public input and any ramification related to funding strategy and the agency who will operate the facility
- g. NOT INCLUDED: Detailed site assessment for the two preferred sites including topographical survey and utility investigation, geotechnical review, level 1 environmental analysis is not included, but can be added as an additional scope item if necessary, depending on the identified preferred sites

Deliverables:

- List of considered sites
- Site Comparison Analysis & Findings
- Monthly virtual progress meeting with Steering Committee

**Task 4: Concept Program & Plan – July 14<sup>th</sup> through September 1<sup>st</sup>, 2023**

Team responsibility: NAC/BKA/WTI/Berger/RC Cost Group

- a. Develop list of potential components of the aquatic facilities including both wet and dry activities
- b. Develop and refine preferred building program(s) for each sub-region with spaces, amenities, and square footages listed based on public engagement response, cost analysis information, and funding strategy
- c. Develop cost per square foot budgets for proposed building programs
- d. Create conceptual site and building plan diagrams, 1 for each preferred site

Deliverables:

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- Aquatic Programming Menu Options
- Aquatic Center Building Program(s) for each sub-region
- Conceptual Site Plan and Floor Plan diagrams for each preferred site
- Monthly virtual progress meeting with Steering Committee

**Task 5: Cost Analysis & Funding Strategy – August 18<sup>th</sup> through September 29<sup>th</sup>, 2023**

Team responsibility: NAC/WTI/BKA/RC Cost Group/DA Davidson

- a. Develop concept level probable cost of construction estimates for the 2 preferred concept including estimated soft costs and land acquisition cost assumptions
- b. Develop Operational Performance Indicator Analysis (Operational Plan) for the 2 preferred concepts including:
  - i. Determine potential operating agency (or agencies) for the center(s)
  - ii. Review of fee structure including drop-in admissions, passes, group rates, and rentals
  - iii. Identification of revenue sources
  - iv. Develop operational cost budget including personnel, contract services, commodities, and debt service/capital replacement
  - v. Develop line-item accounting of revenue impact from all sources
  - vi. Revenue/expenditure comparison including cost recovery level and project recommendations
  - vii. Marketing strategy
  - viii. Program/service considerations
- c. Explore funding strategies for both capital and operations costs utilizing the services of D.A. Davidson or other financial advisor. Information requested by D.A. Davidson will be provided by City financial representatives. Options include:
  - i. Property, REET, and sales tax
  - ii. City, PRSA, MPD, and PFD taxing districts
  - iii. King County, state, and federal funding and grants
  - iv. Private donations
  - v. Multiple sources and partnerships

Deliverables:

- Concept level Probable Cost of Construction Estimates including estimated soft costs
- Operational Performance Indicator Analysis
- Funding Strategy Options
- Monthly virtual progress meeting with Steering Committee

**Task 6: Final Report – Due November 30<sup>th</sup>, 2023**

Team responsibility: NAC/BKA

- a. Develop bullet point narrative of process and findings of each task with related graphics
- b. Compile task deliverables into report appendices
- c. Organize contents into final report draft
- d. Review draft layout with Steering Committee, refine and edit as needed
- e. Present final report virtually to each cities' City Council by November 30, 2023
- f. Refine and finalize report as needed following any comment from City Councils

Deliverables:

- Final report document
- City Council Presentations

## Project Task and Fee

Consultant/Professional Services Agreement

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|  |                  |
|--|------------------|
| Project Initiation                       | \$ 4,270         |
| Project Kick-off Meeting                 | \$ 8,745         |
| Task 1: Market and Gap Analysis          | \$13,325         |
| Task 2: Public Engagement                | \$46,525         |
| Task 3: Site Identification & Assessment | \$21,035         |
| Task 4: Concept Plan, Program, & Design  | \$52,080         |
| Task 5: Cost Analysis & Funding Strategy | \$36,375         |
| Task 6: Final Report                     | <u>\$17,645</u>  |
| <b>Total Fee</b>                         | <b>\$200,000</b> |

## EXHIBIT B

Consultant/Professional Services Agreement  
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IX. F. Authorize the City Manager to execute Contract No. 23-C2898 for t...

**Rates for Services to be Provided by Consultant.** The Consultant shall furnish the services in accordance with the rates specified below or attached hereto, as Exhibit B, provided, however, that payment to Consultant shall not exceed \$200,000.

**CURRENT COMPENSATION RATES**

**HOURLY BILLING RATE METHOD**

**Per Hour Rates**

**Principals – Architecture, Engineering & Strategy & Analytics**

|                   |          |
|-------------------|----------|
| Principal 10..... | \$340.00 |
| Principal 9 ..... | \$300.00 |
| Principal 8 ..... | \$265.00 |
| Principal 7 ..... | \$250.00 |
| Principal 6 ..... | \$230.00 |
| Principal 5 ..... | \$210.00 |
| Principal 4 ..... | \$195.00 |
| Principal 3 ..... | \$175.00 |
| Principal 2 ..... | \$165.00 |
| Principal 1 ..... | \$145.00 |

**Architects & Engineers**

|                               |          |
|-------------------------------|----------|
| Architect / Engineer 10 ..... | \$185.00 |
| Architect / Engineer 9 .....  | \$165.00 |
| Architect / Engineer 8 .....  | \$155.00 |
| Architect / Engineer 7 .....  | \$145.00 |
| Architect / Engineer 6 .....  | \$135.00 |
| Architect / Engineer 5 .....  | \$125.00 |
| Architect / Engineer 4 .....  | \$115.00 |
| Architect / Engineer 3 .....  | \$105.00 |
| Architect / Engineer 2 .....  | \$ 95.00 |
| Architect / Engineer 1 .....  | \$ 85.00 |

**Architectural and Engineering Designers & Technicians**

|                                |          |
|--------------------------------|----------|
| Designer / Technician 15 ..... | \$210.00 |
| Designer / Technician 14 ..... | \$195.00 |
| Designer / Technician 13 ..... | \$185.00 |
| Designer / Technician 12 ..... | \$175.00 |
| Designer / Technician 11 ..... | \$165.00 |
| Designer / Technician 10 ..... | \$155.00 |
| Designer / Technician 9 .....  | \$145.00 |

Consultant/Professional Services Agreement

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|                               |          |
|-------------------------------|----------|
| Designer / Technician 8 ..... | \$135.00 |
| Designer / Technician 7 ..... | \$125.00 |
| Designer / Technician 6.....  | \$115.00 |
| Designer / Technician 5.....  | \$105.00 |
| Designer / Technician 4.....  | \$ 95.00 |
| Designer / Technician 3.....  | \$ 85.00 |
| Designer / Technician 2.....  | \$ 75.00 |
| Designer / Technician 1 ..... | \$ 65.00 |

### **Construction Managers**

|                              |          |
|------------------------------|----------|
| Construction Manager 4 ..... | \$170.00 |
| Construction Manager 3 ..... | \$150.00 |
| Construction Manager 2 ..... | \$130.00 |
| Construction Manager 1 ..... | \$110.00 |

### **Interior Design**

|                            |          |
|----------------------------|----------|
| Interior Designer 10 ..... | \$155.00 |
| Interior Designer 9.....   | \$145.00 |
| Interior Designer 8.....   | \$135.00 |
| Interior Designer 7.....   | \$125.00 |
| Interior Designer 6.....   | \$115.00 |
| Interior Designer 5.....   | \$105.00 |
| Interior Designer 4.....   | \$ 95.00 |
| Interior Designer 3.....   | \$ 85.00 |
| Interior Designer 2.....   | \$ 75.00 |
| Interior Designer 1.....   | \$ 65.00 |

### **Interns**

|  |          |
|--|----------|
| Interns - Architecture, Engineering and Interior Design..... | \$ 65.00 |
|--|----------|

**Rates are subject to periodic change.**

### **CONSULTANT EXPENSES**

Consultant's Invoice Cost times 1.10

### **REIMBURSABLE EXPENSES**

Reimbursable expenses shall include printing and reproductions; postage; courier service; long distance telephone; and authorized travel which may include airfare, ground transportation, lodging, meals, etc. Auto expense will be charged at the current IRS rate per mile. All reimbursed expenses shall be billed at 1.10 times the actual invoice cost.

### **BALLARD\*KING ASSOCIATES**

|                        |          |
|------------------------|----------|
| Principal.....         | \$225.00 |
| Senior Associate ..... | \$200.00 |
| Associate .....        | \$175.00 |

**WATER TECHNOLOGY, INC**

|                                |          |
|--------------------------------|----------|
| Principal/Director .....       | \$250.00 |
| Project Manager/Engineer ..... | \$185.00 |
| Creative Studio .....          | \$160.00 |
| Project Design.....            | \$145.00 |
| Mechanical Design.....         | \$170.00 |
| Technical Design .....         | \$105.00 |
| Administrative.....            | \$ 75.00 |

**RC COST GROUP**

|               |          |
|---------------|----------|
| Partner ..... | \$195.00 |
|---------------|----------|

**RED BARN GROUP, INC**

|                         |          |
|-------------------------|----------|
| Principal.....          | \$200.00 |
| Engineer/Designer ..... | \$185.00 |
| Engineer/Designer ..... | \$170.00 |
| Quality Control.....    | \$285.00 |

**BERGER PARTNERSHIP**

|                       |          |
|-----------------------|----------|
| Principal.....        | \$210.00 |
| Associate .....       | \$165.00 |
| Project Manager ..... | \$135.00 |
| Landscape Staff.....  | \$110.00 |
| Administrative.....   | \$ 95.00 |

**EXHIBIT C**

**City of Kenmore  
Billing Invoice**

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IX. F. Authorize the City Manager to execute Contract No. 23-C2898 for t...

To: City of Kenmore  
 18120 68<sup>th</sup> Ave. NE  
 Kenmore, Washington 98028  
 Phone: (425) 398-8900  
 Fax: (425) 481-3236

Invoice Number: \_\_\_\_\_ Date of Invoice: \_\_\_\_\_

Consultant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_

Contract Period: \_\_\_\_\_ Reporting Period: \_\_\_\_\_

Amount requested this invoice: \$\_\_\_\_\_

Attach itemized description of services provided.

Specific Program/Project: \_\_\_\_\_

\_\_\_\_\_  
 Authorized signature

*For Department Use Only*

-----  
**BUDGET SUMMARY**

|                       |         |
|-----------------------|---------|
| Total contract amount | \$_____ |
| Previous payments     | \$_____ |
| Current request       | \$_____ |
| Balance remaining     | \$_____ |

\_\_\_\_\_  
 Approved for Payment by: \_\_\_\_\_ Date: \_\_\_\_\_

Authorized Signature (Required) \_\_\_\_\_

**EXHIBIT D**

|  |  |  |
|--|--|--|
| Form <b>W-9</b><br>(Rev. October 2018)<br>Department of the Treasury<br>Internal Revenue Service | <b>Request for Taxpayer<br/>Identification Number and Certification</b><br><br>▶ Go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> for instructions and the latest information. | <b>Give Form to the<br/>requester. Do not<br/>send to the IRS.</b> |
|--|--|--|

|  |   |  |
|--|---|--|
| Print or type.<br>See Specific Instructions on page 3. | <b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  |  |
|  | <b>2</b> Business name/disregarded entity name, if different from above   |  |
|  | <b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.<br><br><div style="display: flex; justify-content: space-between; font-size: small;"> <span>Individual/sole proprietor or single-member LLC</span> <span>C Corporation</span> <span>S Corporation</span> <span>Partnership</span> <span>Trust/estate</span> </div> <p style="font-size: x-small;">Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶</p> <p style="font-size: x-small;"><b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</p> <p style="font-size: x-small;">Other (see instructions) ▶</p> | <b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):<br><br>Exempt payee code (if any) _____<br><br>Exemption from FATCA reporting code (if any) _____<br><br><small>(Applies to accounts maintained outside the U.S.)</small> |
|  | <b>5</b> Address (number, street, and apt. or suite no.) See instructions.  | Requester's name and address (optional)  |
|  | <b>6</b> City, state, and ZIP code  |  |
| <b>7</b> List account number(s) here (optional)        |   |  |

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later. **or**

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

| Social security number |  |  |  |  |  |  |  |  |  |
|------------------------|--|--|--|--|--|--|--|--|--|
|                        |  |  |  |  |  |  |  |  |  |

| Employer identification number |  |  |  |  |  |  |  |  |  |
|--------------------------------|--|--|--|--|--|--|--|--|--|
|                                |  |  |  |  |  |  |  |  |  |

**Part II Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

|                      |                            |        |
|----------------------|----------------------------|--------|
| <b>Sign<br/>Here</b> | Signature of U.S. person ▶ | Date ▶ |
|----------------------|----------------------------|--------|

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those

from stocks or mutual funds)

- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later*



## City Council Agenda Bill City of Kenmore, WA

| <p><b>Subject/Topic:</b><br/>Downtown Interactive Urban Art Installation</p> <p><b>Proposed Council Action/Motion:</b><br/>Authorize City Manager to enter into an agreement with the Kenmore Urban Pride Committee and Arts of Kenmore to install Pride themed art on City Hall property.</p>  | <p><b>For Council Meeting Agenda of:</b> 5/22/2023</p> <p><b>Department:</b> Public Works Operations</p> <p><b>Prepared by:</b> Jennifer Gordon, Public Works Operations Director</p> <table border="0"><thead><tr><th></th><th><u><b>Initial &amp; Date</b></u></th></tr></thead><tbody><tr><td><b>Approved by Department Head:</b></td><td><u>JG 5/22/23</u></td></tr><tr><td><b>Approved by City Attorney:</b></td><td>_____</td></tr><tr><td><b>Approved by Finance Director:</b></td><td>_____</td></tr><tr><td><b>Approved by City Manager:</b></td><td><u>RK 5/22/23</u></td></tr></tbody></table> <p><b>Exhibits/Attachments:</b><br/>Arts of Kenmore Downtown Interactive Art Installation Proposal</p> |  | <u><b>Initial &amp; Date</b></u> | <b>Approved by Department Head:</b> | <u>JG 5/22/23</u> | <b>Approved by City Attorney:</b> | _____ | <b>Approved by Finance Director:</b> | _____ | <b>Approved by City Manager:</b> | <u>RK 5/22/23</u> |
|---|--|--|----------------------------------|-------------------------------------|-------------------|-----------------------------------|-------|--------------------------------------|-------|----------------------------------|-------------------|
|   | <u><b>Initial &amp; Date</b></u>   |  |                                  |                                     |                   |                                   |       |                                      |       |                                  |                   |
| <b>Approved by Department Head:</b>   | <u>JG 5/22/23</u>  |  |                                  |                                     |                   |                                   |       |                                      |       |                                  |                   |
| <b>Approved by City Attorney:</b>   | _____  |  |                                  |                                     |                   |                                   |       |                                      |       |                                  |                   |
| <b>Approved by Finance Director:</b>  | _____  |  |                                  |                                     |                   |                                   |       |                                      |       |                                  |                   |
| <b>Approved by City Manager:</b>  | <u>RK 5/22/23</u>  |  |                                  |                                     |                   |                                   |       |                                      |       |                                  |                   |
| <p><b>Summary and Background Information:</b></p> <p>The Kenmore Urban Pride Committee (Committee) in partnership with the Arts of Kenmore (AOK) initially proposed installing a PRIDE themed crosswalk in the downtown corridor, however that idea proved to be beyond the scope of the committee's purview and fundraising. After meeting with city staff to discuss other potential ideas, the concept of painting the front stairs of Kenmore's City Hall inspired by the PRIDE flag was developed.</p> <p>The project premise is to paint the exterior stair risers, not the step flats, at City Hall's main entrance with a depiction of the nationally recognized Chevron PRIDE Flag. The Committee has received approval to use Daniel Quasar's Chevron design with creative license with the caveat to document photos to Quasar's 'creative comments' site.</p> <p>The purpose behind the project is to raise awareness and support for the LGBTQ+ community while beautifying Kenmore's downtown spaces...a Love Note to the community.</p> <p>The Committee will procure the primer/paint mix specific for exterior concrete, supplies, and transfer approved design onto the risers. The surface will need pre-power-washing and a sealant applied post-production. AOK will manage the Community Paint Day production &amp; volunteers.</p> |  |  |                                  |                                     |                   |                                   |       |                                      |       |                                  |                   |



Painted murals are considered temporary with a life-duration of approximately 10 years with reasonable maintenance. By painting only, the risers and adding sealant, wear and tear should be kept at a minimum, reducing the need for ongoing maintenance by City staff.

The Committee and AOK will host a Community Paint Day to install the bulk of the artwork, followed by professional touchup for the final completion. The Committee will then plan to host an unveiling of the project during the community lead Pride Event at the Town Square on June 17th.

**Fiscal Consideration:**

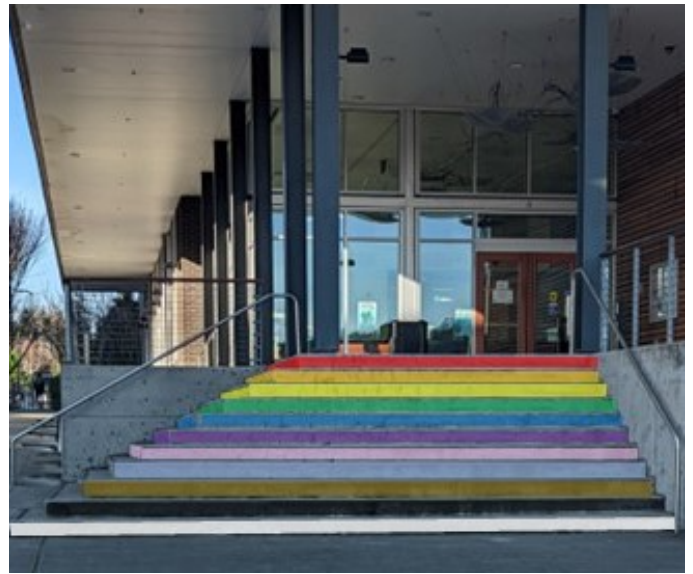
The Kenmore Urban Pride Committee and the Arts of Kenmore are not asking for direct monetary funding for the installation of the art itself, but they are requesting that city staff prepare the site prior to the installation by pressure washing the area and applying an anti-graffiti coating after the artwork is installed.

**City Council Priority or Budget Objective Being Addressed:**

Develop and implement a Diversity, Equity, and Inclusion policy and program.

Foster community engagement and participation.

Foster and create fun.



## DOWNTOWN INTERACTIVE URBAN ART INSTALLATION

*Presentation to Kenmore City Council for Approval*

*May 22, 2023*

A proposal by Kenmore Urban PRIDE Committee

*Presented by Arts of Kenmore and inspired by the City's DEIA task force  
to bring awareness and beauty to the Kenmore landscape.*

Anticipated Installation – JUNE 2023



## Project Summary

The heart of this project is to raise awareness and support LGBTQ+, and of course, beautify Kenmore's downtown spaces with an engaging love note. The 'Downtown Interactive Urban Art Installation is spearheaded by Kenmore's Urban PRIDE Committee in partnership with the City of Kenmore, Arts of Kenmore, and the City's Diversity, Equity, Inclusion and Accessibility Task Force.

ASK — The Kenmore Urban PRIDE Committee (the Committee) is asking Kenmore City Council to approve:

- Painting a mural of the Chevron PRIDE Flag onto the front steps of City Hall,
- City Public Works to manage pressure washing before painting and apply anti-graffiti/weather protectant sealant upon completion, and to provide reasonable maintenance for approximately 15 years (see Maintenance),
- Scheduling a Community Paint Day on either Saturday June 3 or June 10, and a June 17 unveiling.
- The Committee is not asking the City for funding at this time.

INITIAL PROPOSAL — The Committee's initial proposal of painting a crosswalk proved necessary to involve the WADOT making it beyond the scope of the Committee's purview and fundraising. The City presented alternative options in downtown spaces and the Committee accepted to paint the City Hall steps.

DESCRIPTION — The project premise is to paint the exterior stair risers, not the step flats, at City Hall's main entrance with a depiction of the nationally recognized Chevron PRIDE Flag. The Committee has received approval to use Daniel Quasar's Chevron design with creative license with the caveat to document photos to Quasar's 'creative comments' site. The Committee is fundraising to cover expenses (see Budget).

PRODUCTION — The Committee will procure the primer/paint mix specific for exterior concrete, supplies, and transfer approved design onto the risers. The surface will need pre-power-washing and a sealant applied post-production. AOK will manage the Community Paint Day production & volunteers. Leftover paint/supplies will be reserved for future urban art projects (see Appropriating Excess).

MAINTENANCE — Painted murals are considered temporary with a life-duration of 20-25+ years with reasonable maintenance. Preparing the surface, painting only the risers, and adding sealant (approximately every 5 years), will prevent wear to the image and require less maintenance for the City Public Works. AOK will reserve leftover paint and the Committee is committed to collaborate with the City for future touch ups.

PUBLIC EVENTS — Community will be invited to participate at a Community Paint Day event, and professional touchups on the following Sunday. Volunteer groups will include IHS GSA, DEIA Task Force, Urban PRIDE Committee, and whomever wants to help out and have fun. The Committee will host a public unveiling preferably during the June 17 PRIDE event at Town Square.

AOK UMBRELLA — This citizen-driven project is produced under the Arts of Kenmore 501(c)3 Fiscal Sponsorship program providing fiscal oversight, EIN access for tax-deductible donations, IRS reporting, liability coverage, and project facilitation.

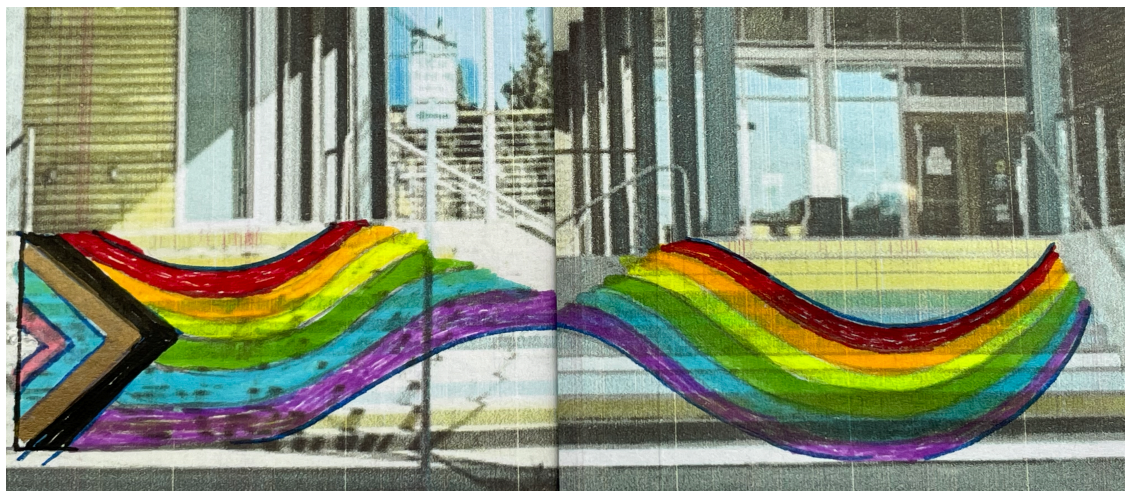
COMMITTEE — David Arthur is the acting liaison for the Kenmore Urban PRIDE Group.

VALUATION — \$8,000

## Budget Projections — April 2023

| Project                                  | Expense          | Income           | In-Kind / Value    |
|--|------------------|------------------|--------------------|
| City Public Works – Power wash / Sealant |                  |                  | \$ 500 +           |
| AOK — Fiscal Sponsor                     | 10% Commission   |                  | \$5000             |
| Fiscal Oversight (2300)                  |                  |                  |                    |
| Project Facilitation (2300)              |                  |                  |                    |
| Website + PayPal Process (400)           |                  |                  |                    |
| <b>Materials</b>                         |                  |                  |                    |
| Paint 11 gal @ \$35/gal + tax            | \$425            |                  |                    |
| Primer 1 gal                             | \$75             |                  |                    |
| Paint supplies (rollers, brushes, etc)   | \$200            |                  |                    |
| Cost overrun (20-25%)                    | \$250            |                  |                    |
| <b>Optional Purchases</b>                |                  |                  |                    |
| Snacks for volunteers (Safeway donation) | \$100            |                  | >                  |
| <b>Volunteers</b>                        |                  |                  |                    |
| Committee (50 x \$15/hr)                 |                  |                  | 750                |
| Painting crew (10 x 3 hr/ea x \$15/hr)   |                  |                  | 450                |
| 1 photographer (3 hrs x \$15/hr)         |                  |                  | 45                 |
| <b>Income / Fundraising</b>              |                  |                  |                    |
| AOK Webpage                              |                  | \$150            |                    |
| Donations — Maser's                      |                  | \$500            |                    |
| [ ArtsWA Creative Grant 2024 ]           |                  |                  |                    |
| <b>Total Value</b>                       | <b>\$7,995</b>   | <b>\$1150</b>    | <b>\$650</b>       |
|  |                  |                  | <b>[ \$6,745 ]</b> |
| <b>Current Shortfall</b>                 | <b>-\$600.00</b> | <b>+\$650.00</b> |                    |

## Design Options — Incorporating the PRIDE Chevron



Mockup: ssh



## Sidewalk Corners



Refresh  
Hydrants



City options ~

Street Banner(s)

(Community groups  
& nonprofits)

Utility Box





## City Council Agenda Bill City of Kenmore, WA

|   |   |
|---|---|
| <p><b>Subject/Topic:</b><br/>Proposed Changes to the City's Business Registration Program</p> <p><b>Proposed Council Action/Motion:</b><br/>No proposed Action/Motion. For Discussion and Direction only.</p>   | <p><b>For Council Meeting Agenda of:</b> May 22, 2023</p> <p><b>Department:</b> City Manager's Office</p> <p><b>Prepared by:</b> Teresa McAllister, Administrative Specialist</p> <p style="text-align: right;"><b>Initial &amp; Date</b></p> <p><b>Approved by Department Head:</b> SLL, 5/8/23</p> <p><b>Approved by City Attorney:</b> N/A</p> <p><b>Approved by Finance Director:</b> MM, 5/9/23</p> <p><b>Approved by City Manager:</b> RK, 5/11/23</p> <p><b>Exhibits/Attachments:</b><br/>Business Registration Program Memo</p> |
| <p><b>Summary:</b></p> <p>Staff is proposing amendments to the City's Business Registration Ordinance and KMC Chapter 5.105 and is seeking Council feedback on these changes. If directed by Council, staff will bring back an amended ordinance at a future date to implement the following changes:</p> <ul style="list-style-type: none"> <li>Expand the City's Business Registration Program to require "non-resident" businesses to register and pay an annual registration fee of \$10</li> <li>Require all resident businesses to register but establish a "fee-free registration" option for businesses below the revenue threshold</li> <li>Raise the annual gross revenue threshold from \$2,000 to \$12,000 (meaning no registration fee until a business's annual revenue is greater than \$12,000). All businesses, regardless of revenue, are required to register (but no city fee when revenue is \$12,000 or less).</li> </ul> |   |
| <p><b>Information/Background:</b></p> <p><b>Non-Resident Business Registration</b></p> <p>The City currently requires all businesses located in the City of Kenmore and with annual gross income above \$2,000 to register and pay a \$10 annual registration fee. The City receives approximately \$8,000 in revenue from its business registration program; these funds are used to support businesses and economic development activities in the City.</p> <p>The City currently does not require "non-resident" businesses to register with the City. Non-resident businesses are physically located outside city limits and enter the City to conduct business, as defined in KMC 5.105.025. Kenmore is one of only two cities with a registration program in Washington State that does not require "non-resident" businesses to register and pay a fee.</p>  |   |

In October 2022, City staff provided an update on the City's Business Registration Program to the Kenmore Business Alliance (KBA). At this meeting, KBA members expressed interest in adding a non-resident business registration requirement to help the City better understand what outside businesses are coming into Kenmore to conduct business and to "level the playing field" so that all businesses operating in Kenmore pay the registration fee. According to the Washington State Department of Revenue, adding non-resident businesses to the City's program could approximately double the City's business registration revenue, based on the experiences of other cities. Staff is recommending the City add a requirement for non-resident businesses to register with the City and pay the annual fee before engaging in business within city limits.

### **Fee-Free Business Registration**

Currently, the City does not require registration for businesses whose gross annual income is \$2,000 or less. As a result, the City does not know how many businesses are operating within its borders and is not able to contact all City businesses to share business assistance opportunities, grant programs, KBA meeting dates, sponsorship opportunities, ask for input, and promote other economic development activities. Of 1,156 currently registered businesses, 65% are home-based.

Many other cities require all businesses to register through their business registration program, but exempt the fee for businesses below a specified income threshold. The City's Diversity, Equity, Inclusion, and Accessibility (DEIA) consultant recommends this approach to improve the likelihood of reaching small and home-based businesses. The proposed amendment would clarify language to say that businesses with a gross annual income at or below the revenue threshold would be required to register but would be waived from paying the \$10 annual registration fee, also known as a "fee-free registration." Staff is recommending the City amend its business registration program to require all businesses to register but implement a fee-free business registration option.

### **Raise Annual Gross Revenue Threshold Amount to \$12,000**

The State of Washington has established that the annual gross revenue threshold for registration cannot be lower than \$2,000; it can, however, be higher. Most cities are in the \$2,000 - \$12,000 range. The City lowered its \$12,000 annual gross income threshold to \$2,000 to increase outreach during the COVID-19 pandemic and staff is recommending raising it back up to \$12,000. The DEIA committee recommended the higher threshold as a way to minimize barriers for small businesses.

### **Next Steps**

If directed by Council, staff will bring back a proposed ordinance with these proposed changes for consideration and adoption at a future meeting. Below is a possible timeline for the work ahead.

| <b>Business Registration Program Changes – Proposed Timeline</b>                        | <b>2023</b> |
|---|-------------|
| Provided informational presentation to Chamber of Commerce Board of Directors           | April 4     |
| Provided update on progress to Kenmore Business Alliance                                | May 4       |
| Presentation to Kenmore City Council for discussion & direction                         | May 22      |
| Draft ordinance   | June        |
| Bring ordinance to Kenmore City Council for adoption                                    | July        |
| Fee notification to Development Services Department and community engagement            | July        |
| Change notification to Department of Revenue (required 75 days prior to effective date) | September   |
| Fee schedule resolution adoption by Kenmore City Council                                | Q4          |
| Continued Community Engagement  | Q4          |



**Fiscal Consideration:**

The City's business registration program currently generates approximately \$8,000 in revenue. Those funds are used to support businesses and economic development in Kenmore; the KBA votes on what projects to fund with business registration dollars. It is estimated that adding non-resident business registration fees might double program revenue to approximately \$16,000, although actual revenue collected might be less than that due to the proposed threshold change. The fee is proposed to be \$10 annually for both resident and non-resident businesses.

**Business Registration Fees**

**Existing Fees** (applicable to businesses with annual gross revenue over \$2,000):

| Type of Registration                      | City Fee<br>Rev =< \$2,000<br>Registration Not<br>Required | City Fee<br>Rev > \$2,000 | DOR Admin Fee<br>(2023) |
|---|--|---------------------------|-------------------------|
| New or Re-opened Business                 |  | \$10                      | \$50                    |
| Additional Location                       |  | \$10                      | \$0                     |
| Existing Business, Initial Registration   |  | \$10                      | \$10                    |
| Annual Renewal                            |  | \$10                      | \$5                     |
| New or Re-opened Non-profit               |  | \$0                       | \$50                    |
| Existing Non-profit, Initial Registration |  | \$0                       | \$10                    |
| Annual Renewal Non-profit                 |  | \$0                       | \$5                     |
| Non-resident Business                     |  | N/A                       | N/A                     |

**Proposed Changes to Revenue Threshold & Fees** (registration required for all businesses, regardless of revenue)

| Type of Registration                      | City Fee<br>Rev =< \$12,000<br>(fee-free registration) | City Fee<br>Rev > \$12,000 | DOR Admin Fee<br>(2023) |
|---|--|----------------------------|-------------------------|
| New or Re-opened Business                 | \$0  | \$10                       | \$50                    |
| Additional Location                       | \$0  | \$10                       | \$0                     |
| Existing Business, Initial Registration   | \$0  | \$10                       | \$10                    |
| Annual Renewal                            | \$0  | \$10                       | \$5                     |
| New or Re-opened Non-profit               | \$0  | \$0                        | \$50                    |
| Existing Non-profit, Initial Registration | \$0  | \$0                        | \$10                    |
| Annual Renewal Non-profit                 | \$0  | \$0                        | \$5                     |
| Non-resident Business*                    | \$0  | \$10                       | \$10                    |

\* Non-resident fee is determined by gross annual income earned within Kenmore city limits.

**City Council Priority or Budget Objective Being Addressed:**

City Council Priority #8. Seek opportunities to promote economic development.



# City of Kenmore, Washington

## Memorandum

March 2, 2023

To: Kenmore Business Alliance  
Cc: Stephanie Lucash, Deputy City Manager  
From: Teresa McAllister, CMO Administrative Specialist  
Subject: Expanding the City's Business Registration Program to Include Businesses Physically Located Outside of Kenmore and Adding a No-Fee Exemption

### BACKGROUND

In October 2022, we provided an update on the City of Kenmore's Business Registration Program to the Kenmore Business Alliance (KBA). The city currently requires all businesses located in the City of Kenmore and with annual gross income above \$2,000 to register and pay a \$10 registration fee each year. One slide in my October presentation stated that Kenmore is one of only two "Department of Revenue (DOR) partner cities" that do not require non-resident businesses, defined as businesses physically located outside city limits, to register with the city before coming into the city to engage in business.

When presented with this information, some KBA member businesses expressed interest in adding the Kenmore registration requirement for non-resident businesses to not only bring the city more in line with the other cities but also to "level the playing field" and treat all businesses the same, whether located in or out of Kenmore. Additionally, we reported that this new program could almost double the city's business registration revenue, based on the experiences of other cities.

### ADDITIONAL PROPOSED AMENDMENT FOR BUSINESSES WITH INCOME AT OR BELOW \$2,000

Currently, the city only requires a business registration for businesses whose gross annual income is over \$2,000. As a result, the city has no ability for direct communication with those businesses about grant opportunities, the KBA, economic development efforts, and other relevant information.

Many other cities require all businesses to register through their business registration program, regardless of income threshold, but they do not require businesses below a specified income threshold to pay the annual fee. The City's Diversity, Equity, Inclusion, and Accessibility (DEIA) consultant recommends this approach as an effective means of communicating with all businesses and improving the likelihood of reaching those that are minority-, women- and veteran-owned.

The proposed amendment would clarify language to say that businesses with gross annual income at or below \$2,000 would still be required to register but would be waived from paying the \$10 annual registration fee, also known as a “fee-free registration”. This is my recommendation for the reasons noted above.

One other discussion question this triggers is whether to return to the \$12,000 annual income threshold for fee payment as it was in 2018, or to retain the current threshold of \$2,000.

## STEPS AND REQUIREMENTS FOR BUSINESS REGISTRATION PROGRAM EXPANSION

If we choose to proceed, following are the steps needed to add 1) the non-resident business registration, and 2) the fee-free registration to the Kenmore Business Registration Program. This would require a new ordinance to amend Kenmore Municipal Code, KMC 5.105. I have also provided as an addendum to this memo, a history of the City’s business registration program to provide additional context.

The steps are:

1. **Present to the Chamber of Commerce Board of Directors** in the second quarter of this year to share KBA’s and the City’s joint recommendation and seek input on how to proceed.
2. **Draft a Business Registration Ordinance** to Revise KMC 15.105. This will involve city attorney guidance.
3. **Informational Presentation to Council** in April or May.
4. **Chamber of Commerce Board of Directors Change Authorization?**
5. **Outreach to Stakeholders** - KBA to advise on methods.
6. **Business Registration Ordinance Adoption.** Present to Council for adoption of ordinance to amend KMC 5.105 in July or August.
7. **Department of Revenue Change Notification.** According to RCW 35.90.070, the Department of Revenue (DOR) requires a minimum 75-day notification from the City of any business registration program change that affects in any way who must register their business with the City, who is exempt from registering, or any fee updates. Submit by October 13, 2023 for effective date of January 1, 2024.
8. **City of Kenmore Fee Schedule Adoption.** Fee changes are presented to Council as part of the 2024 Fee Schedule Resolution in 4<sup>th</sup> quarter 2023.

## PROPOSED NEXT STEPS AND TIMELINE (2023)

|   |                     |
|---|---------------------|
| <b>Presentation to Chamber Board of Directors</b>             | <b>Q2</b>           |
| <b>Draft Ordinance</b>  | <b>Q2</b>           |
| <b>Informational presentation to the Kenmore City Council</b> | <b>April or May</b> |
| <b>Chamber BOD Change Authorization</b>                       | <b>May</b>          |
| <b>Outreach to Stakeholders</b>                               | <b>May-July</b>     |
| <b>Ordinance to City Council for adoption</b>                 | <b>July</b>         |

|  |                        |
|--|------------------------|
| <b>Fee notification to Development Services</b>    | <b>July</b>            |
| <b>Change Notification to DOR</b>                  | <b>Prior to Oct 13</b> |
| <b>Fee schedule resolution adoption by Council</b> | <b>Q4</b>              |
| <b>Continued Community Engagement</b>              | <b>Q4</b>              |

Thank you for the opportunity to provide you with this important information about possible expansion of the business registration program. Please let me know if we haven't accurately represented your request, or if you have any questions.

# CITY OF KENMORE

## Kenmore Business Registration Program

May 22, 2023

*Presented by:*

Teresa McAllister, Admin Specialist

Stephanie Lucash, Deputy City Manager

Janet Quinn, Management Analyst ARDA

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# Why We're Here

## **Kenmore Business Alliance presentation in October 2022**

- Committed to providing greater transparency
- KBA asked us to explore expanding program to non-resident businesses
- Level the playing field
- One of only two Washington cities who don't require non-resident businesses to register
- Questions about how many businesses are in Kenmore

## **We are proposing some changes to our business registration program**

- Discussion and direction only; no proposed action or motion



# Definitions

## Business Registration

- Register business to obtain city business license
- Shows up on state business license as a city endorsement


## Non-Resident Business

- Businesses located outside city limits, coming into the city to engage in revenue-producing activities

## DOR-BLS

- Department of Revenue's Business Licensing Service





STATE OF  
WASHINGTON

Municipality

CITY OF KENMORE  
18120 68TH AVE NE  
KENMORE WA 98028-2701


UNEMPLOYMENT INSURANCE - ACTIVE  
MINOR WORK PERMIT - ACTIVE

CITY ENDORSEMENTS:  
KENMORE GENERAL BUSINESS - ACTIVE

## BUSINESS LICENSE

Issue Date: Jul 29, 2022  
Unified Business ID #: 601883200  
Business ID #: 001  
Location: 0002  
Expires: Jul 31, 2023

INDUSTRIAL INSURANCE - ACTIVE  
TAX REGISTRATION - ACTIVE



STATE OF  
WASHINGTON

Profit Corporation

FIRE PROTECTION SERVICE CORPORATION  
MOUNTAIN ALARM  
4155 HARRISON BLVD  
OGDEN UT 84403-2463

TAX REGISTRATION - ACTIVE

CITY ENDORSEMENTS:  
OLYMPIA GENERAL BUSINESS - NON-RESIDENT #30214 - ACTIVE  
SPOKANE GENERAL BUSINESS - NON-RESIDENT - ACTIVE  
MERCER ISLAND GENERAL BUSINESS - NON-RESIDENT #130028 - ACTIVE  
CLARKSTON GENERAL BUSINESS - NON-RESIDENT - ACTIVE  
ABERDEEN GENERAL BUSINESS - NON-RESIDENT #216060 - ACTIVE  
BREMERTON GENERAL BUSINESS - NON-RESIDENT #31809 - ACTIVE

## BUSINESS LICENSE

Issue Date: Jul 22, 2022  
Unified Business ID #: 602369619  
Business ID #: 001  
Location: 0002  
Expires: Feb 28, 2023

# Business Registration Overview

## Who Currently Needs to Register with the City?

- Businesses located in Kenmore, including non-profits and home-based businesses, with a gross annual income over \$2,000 ("the income threshold")

## Who is Exempt from City Business Registration?

- Kenmore businesses with a gross annual income  $\leq$  \$2,000
- Businesses located outside Kenmore that do business here
- Minors, schools and universities, churches, farmers selling own products, government agencies

## What is the City's Fee for Registration?

- Kenmore registration fee is \$10
- No fee for non-profit organizations

## How to Register

- Apply through Department of Revenue's Business Licensing Service





# Business Registration Data

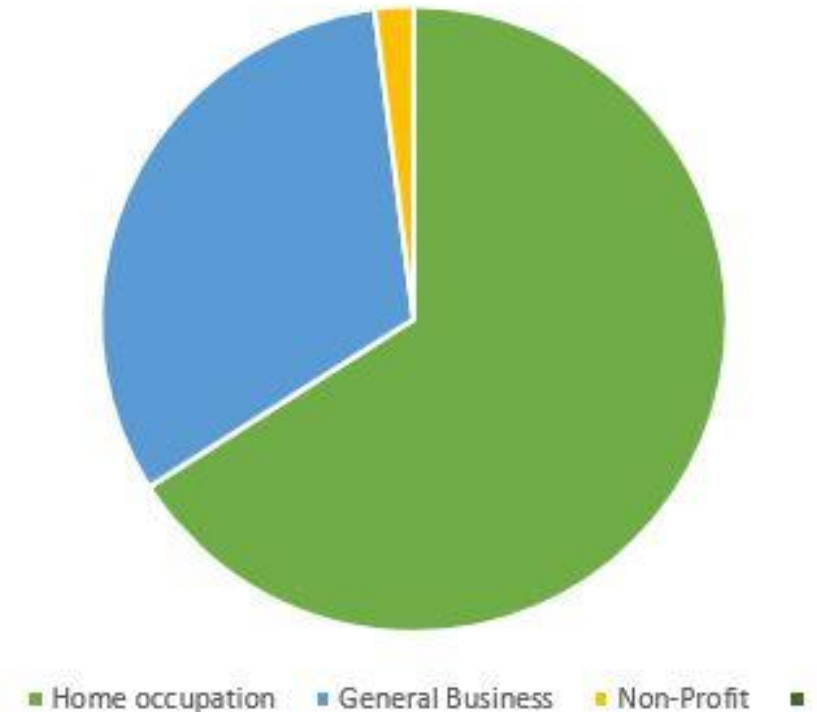
**How many businesses are currently registered in Kenmore?**

- 1,156
  - 66% Home occupation endorsements (775)
  - 32% General business endorsements (370)
  - 2% Non-profit business endorsements (28)

**How many businesses are currently operating in Kenmore?**

- We don't know
- Most other cities require registration so they know this

Business Registration by Type



# Kenmore Business Registration Data

## Top business sectors (DOR data)

- Administrative Management and General Management Consulting Services (66)
- New Single-Family Housing Construction (51)
- Residential Remodelers (35)
- All Other Miscellaneous Store Retailers (35)
- Janitorial Services (30)
- Independent Artists, Writers, and Performers (29)
- Landscaping Services (23)
- Other Accounting Services (23)
- Marketing Consultant Services (22)
- Assisted Living Facilities for the Elderly (18)



# Three Proposed Changes to the Program

1. Require registration for all businesses
  - Add a no-fee registration for all businesses at or below the income threshold
2. Raise gross annual income threshold from \$2,000 to \$12,000
3. Add non-resident business registration requirement



# 1. Require Registration but add Fee-Free Option

- Require all businesses to register
  - Allow us to know how many businesses are operating here
  - Improve our ability to connect with businesses
  - Help us better understand our business community and seek their feedback and ideas
  - Provide information about opportunities and events
    - ARPA Business Assistance
    - KBA meetings
- Offer fee-free registration for businesses with gross income at or below threshold



## 2. Raise Income Threshold

- Revert gross annual income threshold from \$2,000 back to \$12,000
- Pre-pandemic threshold was \$12,000; lowered to \$2,000 in 2020 to increase outreach during COVID-19 pandemic
- DEIA Committee recommended the higher threshold



### 3. Non-Resident Business Registration Proposal

- All non-resident businesses required to register
- Same structure as resident business registration
- \$10 annual fee
- Fee-free registration would also apply to non-resident businesses



# Existing Registration Fees

**Existing Fees** (applicable to businesses with annual gross revenue over \$2,000):

| Type of Registration                      | City Fee<br>Rev =< \$2,000<br>Registration Not<br>Required | City Fee<br>Rev > \$2,000 | DOR Admin Fee<br>(2023) |
|---|--|---------------------------|-------------------------|
| New or Re-opened Business                 |  | \$10                      | \$50                    |
| Additional Location                       |  | \$10                      | \$0                     |
| Existing Business, Initial Registration   |  | \$10                      | \$10                    |
| Annual Renewal                            |  | \$10                      | \$5                     |
| New or Re-opened Non-profit               |  | \$0                       | \$50                    |
| Existing Non-profit, Initial Registration |  | \$0                       | \$10                    |
| Annual Renewal Non-profit                 |  | \$0                       | \$5                     |
| Non-resident Business                     |  | N/A                       | N/A                     |



# Proposed Changes to Revenue Threshold & Fees

| Type of Registration                      | City Fee<br>Rev =< \$12,000<br>(fee-free registration) | City Fee<br>Rev > \$12,000 | DOR Admin Fee<br>(2023) |
|---|--|----------------------------|-------------------------|
| New or Re-opened Business                 | \$0  | \$10                       | \$50                    |
| Additional Location                       | \$0  | \$10                       | \$0                     |
| Existing Business, Initial Registration   | \$0  | \$10                       | \$10                    |
| Annual Renewal                            | \$0  | \$10                       | \$5                     |
| New or Re-opened Non-profit               | \$0  | \$0                        | \$50                    |
| Existing Non-profit, Initial Registration | \$0  | \$0                        | \$10                    |
| Annual Renewal Non-profit                 | \$0  | \$0                        | \$5                     |
| Non-resident Business*                    | \$0  | \$10                       | \$10                    |

\* Non-resident fee is determined by gross annual income earned within Kenmore city limits.





# Business Registration Revenue

Revenue collected from the city registration fees will continue to be specifically directed to activities that support and promote local businesses and the Kenmore Business Alliance

- Annual revenue is between \$8,000-\$9,000
- With addition of non-resident registration, anticipate close to double current revenue
- With a higher gross income threshold, anticipate loss of approximately \$1,600
  - 160 businesses with gross income greater than \$2,000 up to \$12,000



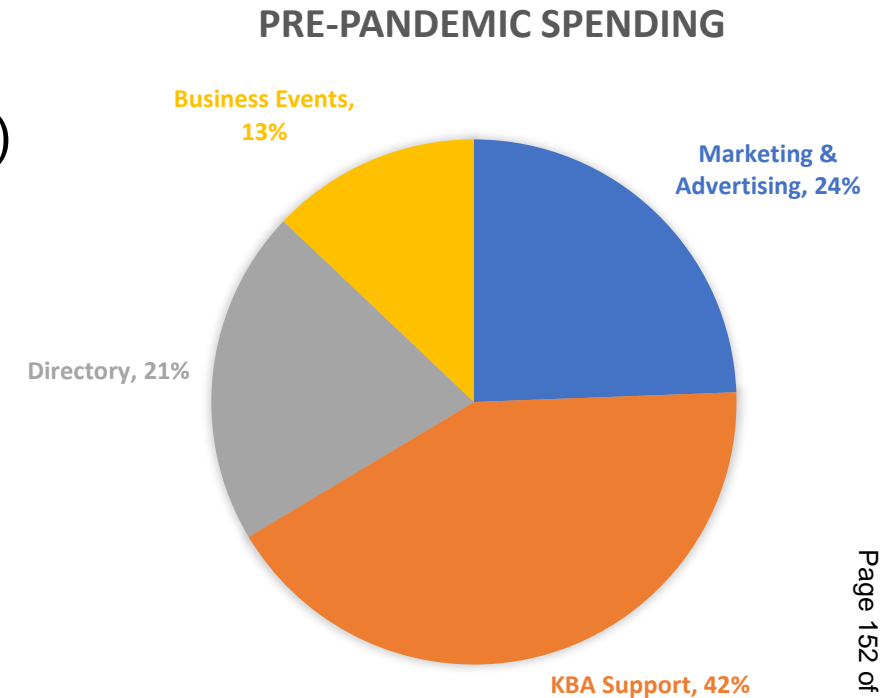
# Business Registration Expenditures

## Pre-Pandemic

- Business Networking & Training Events (13%)
- Advertising & Marketing (24%)
- Business Directory Subscription with Memberzone (21%)
- Monthly Payments to Chamber for KBA Support (42%)

## Program Expenses Eliminated in 2020

- In-person events cancelled due to the pandemic
- Bothell-Kenmore Reporter went out of business
- Business Directory now hosted in-house
- Port of Seattle grant has been covering some business acceleration training



# New Approach to Business Registration

- Strengthening partnership with the Bothell Kenmore Chamber of Commerce
  - As of this spring, no longer paying the Chamber for KBA administrative support (\$300/month)
- Involving KBA members in decision making about how to spend these funds
- KBA members making program suggestions
- Committing to annual KBA presentation on business registration program



# KBA Strategic Planning Session in January 2023

Asked for KBA input on how to spend business registration program revenue

- Goals for Strategic Planning Session:
  - Bring more transparency to this revenue
  - Bring KBA members into the decisions about how to spend these dollars
  - Let KBA members vote on ideas
  - Have fun and connect with each other
- Top Vote Getters at Strategic Planning Session
  1. Revamp FindKenmore.org domain and create a new and improved Kenmore Business Directory
  2. Support networking events at local businesses



# Proposed Timeline

| <b>Business Registration Proposal Next Steps</b>                 | <b>2023</b>     |
|--|-----------------|
| Informational presentation to Chamber BOD                        | April 4         |
| Outreach to stakeholders   | April-May       |
| Presentation to city council for discussion & direction          | May 22          |
| Draft ordinance  | Q2              |
| Ordinance to city council for adoption                           | July            |
| Fee notification to Development Services                         | July            |
| Change notification to DOR (req 75 days prior to effective date) | Prior to Oct 13 |
| Fee schedule resolution adoption by Council                      | Q4              |
| Continued Community Engagement                                   | Q4              |

**Anticipated Effective Date: January 1, 2024**



# Business Registration Team

Stephanie Lucash  
Deputy City Manager

Teresa McAllister  
Administrative Specialist, City Manager's Office

Janet Quinn  
Management Analyst / ARPA, City Manager's Office

Brian Randall  
Accountant, Finance and Administration



# City Council Agenda Bill

## City of Kenmore, WA

|  |  |
|--|--|
| <p><b>Subject/Topic:</b></p> <p>Personnel Policies Manual Comprehensive Update.</p>  | <p><b>For Council Meeting Agenda of:</b> May 22, 2023</p> <p><b>Department:</b> City Manager’s Office</p> <p><b>Prepared by:</b> Rob Karlinsey, City Manager</p>   |
| <p><b>Proposed Council Action/Motion:</b></p> <p>Approve Resolution 23-398 Adopting the Personnel Policies Manual as Exhibit A to the Resolution.</p>  | <div style="float: right; text-align: right;"> <b><u>Initial &amp; Date</u></b><br/>             RGK<br/> <u>KW via email</u><br/>             MM<br/> <u>RGK 4/26</u> </div> <p><b>Approved by Department Head:</b></p> <p><b>Approved by City Attorney:</b></p> <p><b>Approved by Finance Director:</b></p> <p><b>Approved by City Manager:</b></p> <p><b>Attachments:</b></p> <ol style="list-style-type: none"> <li>Resolution 23-398 Adopting the Personnel Policies Manual as Exhibit A to the Resolution</li> <li>May 8, 2023 Agenda Bill and Exhibits</li> </ol> |
| <p><b>Summary:</b></p> <p>The Personnel Policies Manual is a very important document for the internal workings of the City organization. It provides rules and policies on employment practices, employee pay and benefits, and employee responsibilities and conduct.</p> <p>At the May 8, 2023 City Council meeting, the City Council reviewed proposed revisions to the Personnel Policies Manual (see Attachment 2 to this Agenda Bill) and provided direction on all but one of the proposed changes. Regarding the remaining item, section 5.6.4 of the Manual, the City Council requested additional information and expressed concerns over the proposed language. As a result, the City Manager is proposing changes to the section that further narrows the policy, makes it more direct in its meaning, and adds clarifying language such as travel distances covered by the allowance.</p> <p>Original language proposed on May 8:</p> <p>5.6.4 Business Meeting Meal &amp; Travel Allowance. For some executive-level positions, the nature and custom of their jobs (such as economic development and intergovernmental relations) may require more frequent lunch meetings and travel around the Puget Sound area. In these cases, tracking mileage and odometer readings and tracking and submitting meal receipts can be time consuming and inefficient. In these limited and unique cases, the City Manager may allow a monthly allowance up to four hundred dollars (\$400) per person for business meetings and related meals and travel. The City Manager is not eligible for this allowance unless specifically and separately approved by the City Council for the City Manager.</p> <p>Proposed new language:</p> <p>5.6.4 Business Meeting Meal &amp; Travel Allowance. For the executive-level position whose responsibilities require more frequent lunch meetings and travel around the Puget Sound and whose job responsibilities include</p> |  |

being the lead on economic development, the City Manager may allow a monthly allowance up to four hundred dollars (\$400) for business meetings and related meals and travel. In these cases, tracking mileage and odometer readings and tracking and submitting meal receipts can be time consuming and inefficient, and therefore an allowance provides greater efficiency and outcomes. The recipient of this monthly allowance may not submit reimbursement requests for mileage and meal expenses greater than \$400 per month. However, they may submit expense mileage reimbursement requests for travel outside of a 50-mile radius of Kenmore City Hall. Travel-related costs to conferences more than 50 miles from Kenmore are not considered part of and therefore are in addition to this monthly allowance. The City Manager is not eligible for this allowance unless specifically and separately approved by the City Council for the City Manager.

If the City Council concurs with this new language, then the City Manager recommends that the City Council approve Resolution 23-398 adopting the Personnel Policies Manual.

#### **Fiscal Consideration:**

At the May 8 Council meeting, the City Council requested data on business meeting costs. Reviewing past meeting trends, a typical month for this position includes approximately eight business meetings that require travel away from City Hall. These meetings take place throughout the Seattle metropolitan area. Lunch meetings and coffee meetings, whether outside of or in Kenmore, tend to happen about 1.5 times per week or approximately six times per month.

| Off-Site Meetings<br>Per month | Miles Roundtrip | Mileage Rate | Total    |
|--------------------------------|-----------------|--------------|----------|
| 8                              | 30              | \$0.655      | \$157.20 |

| Lunch Meetings<br>Per Month | Cost Per |          |
|-----------------------------|----------|----------|
| 6                           | \$23.00  | \$138.00 |

| Coffees Per<br>Month | Cost Per |         |
|----------------------|----------|---------|
| 6                    | \$5.00   | \$30.00 |

|       |          |
|-------|----------|
| Total | \$325.20 |
|-------|----------|

#### **Administrative Processing Costs Saved:**

| Hours Per<br>month | Hourly Rate | Monthly Total |
|--------------------|-------------|---------------|
| 1.2                | \$67.00     | \$80.40       |

With savings in administrative processing costs included, the City should not see a net cost increase (in dollars and time) from this proposed policy.

#### **City Council Priority or Budget Objective Being Addressed:**

The Personnel Policies Manual supports all City Council priorities as well as the Kenmore 20-Year Vision Statement as adopted in the Comprehensive Plan on November 7, 2022.



**CITY OF KENMORE  
WASHINGTON  
RESOLUTION NO. 23-398**

**A RESOLUTION OF THE CITY COUNCIL OF KENMORE, WASHINGTON,  
REPEALING RESOLUTIONS 98-016, 16-288, 17-297, 18-313, 19-325, 19-  
333, 22-377, AND 22-379, ADOPTING A REVISED PERSONNEL POLICIES  
MANUAL, AND AUTHORIZING THE CITY MANAGER TO ADOPT AND  
AMEND PERSONNEL POLICIES.**

---

WHEREAS, the City's Personnel Policies Manual is a vital internal policy document that governs employment practices, employee responsibilities, and employee compensation and benefits; and

WHEREAS, the City of Kenmore adopted its first personnel policies in Resolution 98-016 on August 31, 1998; and

WHEREAS, Resolution 98-016 authorized the City Manager to adopt and amend personnel policies within budget limitations; and

WHEREAS, over the last 25 years since the first adoption of the Personnel Policies, the City has amended the Personnel Policies from time to time in keeping with changes in case law and statutes as well as in response to changes in the needs of the City; and

WHEREAS, the Personnel Policies Manual applies only to City employees and does not apply to the City Council, City commissions and committees, or City volunteers; and

WHEREAS, it is necessary to periodically revise the Personnel Policies document as the City organization, laws, case law, and the world around us change; and

WHEREAS, a comprehensive review of the Personnel Policies Manual has been taking place over the last year, and as a result, many revisions and new sections are proposed; and

WHEREAS, the City Council desires to repeal Resolutions 98-016, 16-288, 17-297, 18-313, 19-325, 19-333, 22-377, and 22-379 and adopt an updated Personnel Policies Manual;

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

Section 1. Prior Personnel Policies Resolutions Repealed. Resolutions 98-016, 16-288, 17-297, 18-313, 19-325, 19-333, 22-377, and 22-379 are hereby repealed.

Section 2. Personnel Policies Adopted. The City Council adopts the Personnel Policies Manual as set forth on Exhibit A, attached hereto and incorporated by reference.

Section 3. Authority to Adopt/Amend. The City Council hereby authorizes the City Manager to continue to adopt and amend personnel policies, provided that the financial impacts of the amendments are within budget limitations.

Section 4. Severability. If any section, sentence, clause, or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this resolution.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON AT A REGULAR MEETING THEREOF THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

CITY OF KENMORE

\_\_\_\_\_  
Nigel Herbig, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Michelle Kang, Acting City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Dawn Reitan, City Attorney



# **City of Kenmore**

# **Personnel Policies Manual**

Updated: May 2023

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# 1 GENERAL PROVISIONS

## 1.1 Welcome Message

Congratulations on your employment as a City of Kenmore (“City”) employee. Every City employee is selected for the breadth of their job skills and experience as well as their positive approach to customer service. Each of us must be good not only at our own jobs, but also be able to help others be good at theirs. We select each City employee for their ability to enhance our team and their can-do approach to City services. While many of our employees provide direct services to residents, the City is, in part, a “contract city,” meaning other government agencies or private companies contract with the City to provide services that would be cost prohibitive or less effective for the City to offer on its own. We pride ourselves on selecting, training, and supporting a high quality, multi-talented, flexible, and customer service-oriented City staff. Welcome to the Kenmore Team!

## 1.2 Public Service and Organizational Values

1.2.1 Our employees have a passion for public service, to provide quality customer service both internally and externally. This means helping all visitors to City Hall and other City facilities feel welcome, answering customers’ questions and concerns in an efficient, respectful, and timely manner. It also means that we do our best to help each customer feel seen, heard, and understood, and it means following through to ensure that each inquiry and concern is addressed to the best of our ability. These customer service principles reflect our commitment to the Kenmore community and our Diversity, Equity, Inclusion, and Accessibility (DEIA) values. Our Customer Service Handbook discusses customer service in more detail.

1.2.2 Public service is important to all of us in our organization. We are here to transform the City Council’s vision and priorities into reality, to ensure tax dollars are spent prudently, and to help all residents and businesses thrive and find solutions to their problems. The City of Kenmore is a city of innovation; we recognize that there is always room for improvement and that effectively solving problems and improving quality of life requires flexibility and ingenuity. We have a growth mindset—we are willing to grow and learn from past experiences and those around us. We also have an outward mindset, meaning that our focus is on lifting others. We are also committed to improving diversity,

equity, inclusion, and accessibility for all people who live in, work in, or visit Kenmore.

- 1.2.3 In short, we are committed to creating a thriving community where all people love where they live, work, and play. More detail and instruction about the City's service vision, values, and organizational culture can be found in the City's Customer Service Handbook.

### **1.3 Form of Government**

Kenmore has a "Council-Manager" form of government. The residents elect the City Council at large. The City Council then elects from among its members a Mayor and Deputy Mayor to serve as Chair and Vice-Chair of the City Council. The City Council appoints the City Manager who acts as the City's Chief Executive Officer. All City employees work under the direction and supervision of the City Manager. An organizational chart summarizing City functions appears in the City's adopted budget.

### **1.4 Purpose and Scope**

- 1.4.1 The primary mission of every City employee is to provide courteous, orderly, efficient, and effective delivery of services to the residents, businesses, workers, and visitors of the City. This manual is a general informational guide to the City's current employment policies and shall not be construed as a contract. The City reserves the right to amend, delete, supplement, or rescind any of the provisions of this manual, as the City deems necessary and appropriate, without advance notice. These policies shall not be construed to create contractual rights or any type of promise or guarantee of specific treatment upon which any employee may rely.
- 1.4.2 The City Manager shall have the authority to exercise reasonable judgment and discretion in the interpretation and amending of these policies. The City Manager also has the right to deviate from these policies in individual situations when the City Manager, in the City Manager's sole discretion, determines that it is in the best interest of the City to do so, such as in emergency or other unique circumstances. City Council Resolution 98-016 authorizes the City Manager to adopt personnel policies and, from time to time, amend the same, provided the financial impact of the personnel policies are within budget limitations.



- 1.4.3 These personnel policies apply to all City employees. They do not apply to elected officials, members of appointed boards and commissions, or independent contractors.
- 1.4.4 The provisions of this personnel manual, as an informational document, are subject to more specific or conflicting provisions of written contracts such as collective bargaining agreements, contracts with other agencies, or individual contracts of employment. In the event of any conflict with City ordinance, state or federal law, rule, or regulation, the ordinance, statute, rule, or regulation shall prevail. These policies shall be interpreted to conform with ordinance and statute.
- 1.4.5 Employment with the City is at-will, which means that the employee or the City may terminate the employment relationship at any time, with or without notice, with or without cause. These policies do not modify in any way, the at-will status of the employment relationship between the City and its employees.
- 1.4.6 The only person authorized to enter into a collective bargaining agreement, contracts with other agencies, or individual contracts of employment is the City Manager, subject to City Council approval, where applicable. In order to be binding, all such contracts must be in writing and signed by both parties. The City Manager may delegate hiring authority; such hiring authority shall be given in writing.

## **1.5 Equal Employment Opportunity**

- 1.5.1 City is an equal employment opportunity employer. The City employs, retains, promotes, terminates, and otherwise treats all employees and job applicants on the basis of merit, qualifications, work ethic, and competence. City policies and practices shall be applied without regard to any individual's sex, race, color, religion, national origin, pregnancy, age, marital status, physical, mental, or sensory disability, sexual orientation, gender identity, or any other basis prohibited by local, state, or federal law.
- 1.5.2 The City will not discriminate against qualified applicants or employees with a sensory, physical, or mental impairment, unless the impairment cannot be reasonably accommodated and prevents proper performance of an essential function of the job.

- 1.5.3 The City complies with all applicable federal, state, and local laws that prohibit discrimination in employment. Any City employee who is found to have violated the City's policy against any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

## **1.6 Anti-Harassment**

- 1.6.1 The City is committed to providing a workplace that is free of verbal, physical, and visual forms of harassment so that everyone can work in a productive, respectful, and professional environment.
- 1.6.2
- 1.6.3 In keeping with this commitment, the City will not tolerate harassment of employees by anyone. Harassment in employment that is based on race, color, national origin, sex, religion, creed, marital or veteran's status, age, the presence of a physical, mental, or sensory disability, sexual orientation, gender identity, or any other basis prohibited by local, state, or federal laws is prohibited. The City does not tolerate harassment by anyone in the workplace—whether by supervisors, co-workers, or third parties such as vendors, contractors, or customers—nor does it consider conduct that violates this policy to fall within the course and scope of City employment or to be the direct consequence of the discharge of one's employment duties and responsibilities. Employees who violate this policy are subject to discipline, up to and including termination.
- 1.6.4 "Harassment" includes offensive and unwelcomed remarks, gestures, or physical contact; display or circulation of written or electronic materials or pictures; and/or jokes or slurs based on race, color, national origin, sex, religion, creed, marital or veteran's status, age, the presence of a physical, mental, or sensory disability, sexual orientation, gender identity, or any other basis prohibited by local, state, or federal laws.
- 1.6.5 "Sexual harassment" is generally defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which: (i) submission to such conduct is made either explicitly or implicitly a term or condition of employment and/or affects employment opportunities; or (ii) interferes with the employee's work or creates an offensive, intimidating, degrading, or hostile work environment.
- 1.6.6 Prohibited activity under this policy includes conduct carried out in person or by phone, computer systems, social media, email, and any other electronic means.

- 1.6.6 The City is committed to taking reasonable steps to prevent harassment from occurring and will take prompt and appropriate action when unlawful harassment is reported. To do this, however, the City needs the cooperation of all its employees, at all levels.
- 1.6.7 Employees should not tolerate inappropriate behavior. As an initial matter, they should consider making their feelings known to the offending employee. In many cases, if an employee makes their feelings known to the offending person(s), tells the offending person(s) that the conduct is not appropriate, and/or asks that the offending conduct be discontinued, this may resolve the situation. However, this is not a required step of the complaint resolution process with respect to reporting harassment, and if an employee is not comfortable doing this, the employee should proceed to the reporting process set forth in Section 1.6.8 below.
- 1.6.8 Any employee who experiences or witnesses conduct that the employee believes is harassing and/or has created a hostile or offensive place to work, should immediately notify their department director, the Human Resources Manager, the City Manager, or any other department director to whom the employee feels comfortable reporting. When possible, employees are required to report concerns about discrimination/harassment before behaviors become severe or pervasive, as the City prefers to stop discrimination/harassment before it rises to the level of a violation of the anti-discrimination and anti-harassment laws. Supervisors (of any level) who know about or receive reports of offending behavior shall promptly notify the Human Resources Manager. Complaints involving the Human Resources Manager should be referred to the City Manager; complaints involving the City Manager or City Council should be directed to the City Attorney.
- 1.6.9 The City will promptly and appropriately investigate all claims of harassment. Complaints will be handled with sensitivity, discretion, and confidentiality to the extent allowed by the circumstances and the law. Generally, this means that allegations of harassment are shared with those who have a need to know so that the City can conduct an effective investigation and take appropriate action to resolve the complaint. If, following the investigation, the City concludes that unlawful harassment or otherwise inappropriate conduct has occurred, prompt and effective remedial action will be taken. This may include discipline of the offending party and other actions to remedy the effects of the harassment and to prevent further harassment, as determined appropriate by the City.

- 1.6.10 The City will not retaliate against an employee who in good faith complains of harassment or otherwise assists in the investigation of such complaint, nor will it permit such retaliation. An employee who believes they have been retaliated against for having reported harassment or having participated in the investigation of a harassment complaint are urged to promptly notify the Human Resources Manager or the City Manager so that their concerns may be investigated (complaints about retaliation from the City Manager should be directed to the City Attorney). Claims of retaliatory activity will be treated as a separate violation of this policy and appropriate corrective measures will be taken if allegations of retaliation are substantiated. It is important to the City that an employee's concerns be thoroughly reviewed and investigated so that appropriate steps can be taken as necessary. It is the duty of each employee to assist in the maintenance of a discrimination-free workplace.

## **1.7 Disability Accommodation**

- 1.7.1 The City is committed to ensuring equal employment opportunity for qualified persons with disabilities in accordance with the Americans with Disabilities Act and other applicable federal, state, and local laws.
- 1.7.2 As provided by those laws, there are two sets of circumstances under which the City will make reasonable accommodation unless doing so would create an undue hardship for the City:
- An individual has a disability that substantially limits their ability to perform the essential functions of their job.
  - Working without accommodation would aggravate a disability such that it would create a substantially limiting effect in the future.

What constitutes a reasonable accommodation is decided on a case-by-case basis, depending upon the particular circumstances.

- 1.7.3 If an employee has a disability that requires a reasonable accommodation, the employee should notify the Human Resources Manager of the need for a disability accommodation. The City will treat such information as confidential and will share only on a "need to know basis" for purposes of evaluating an accommodation request. Employees are not required to disclose a disability unless they are seeking an accommodation.

- 1.7.4 In order to evaluate potential accommodations, the City may request a medical certification from the employee to verify the nature of the disability and related limitations or restrictions, to identify potential reasonable accommodations, and/or to determine whether continued work would pose a direct threat to the health or safety of the employee or others that cannot be eliminated by reasonable accommodation.

## **1.8 Pregnancy and Breastfeeding Accommodations**

- 1.8.1 The City will provide pregnant and nursing mothers reasonable accommodations for pregnancy and pregnancy-related health conditions, which include health conditions during pregnancy and after the birth of the baby, such as the need to express milk.

- 1.8.2 For pregnant employees, such accommodations may include the following:

- Providing frequent, longer, or flexible restroom breaks;
- Modifying any no food or drink policy;
- Providing seating or allowing the employee to sit more frequently; and
- Restrictions on lifting more than 17 pounds.

- 1.8.3 A pregnant employee, upon a medical certification from the employee's health care provider confirming the need for the same, may also be eligible for the following additional accommodation, provided that it does not represent a significant difficulty or expense to the City, which shall be determined by the City on a case-by-case basis, based upon the particular operational circumstances and position involved:

- Job restructuring, including modifying a work schedule, job reassignment, changing a work station, or providing equipment;
- Providing a temporary transfer to a less strenuous or hazardous position;
- Scheduling flexibility for prenatal visits; and
- Providing any further accommodations the employee may need.

- 1.8.4 The City will, for a period of two years following the birth of their child, provide a nursing employee with reasonable break time to express milk. These break times should, when possible, be taken concurrently with any other break time already provided. Employees should discuss the length and frequency of these breaks with their direct supervisor. The employee will also be provided a space to express breast milk, other than a restroom, that is shielded from view and

free from intrusion from co-workers and the public, provided such a location exists at the place of business or worksite. If the City does not have such a location, the City will work with the employee to identify a convenient location.

## **1.9 Religious Accommodation**

The City recognizes the diversity of religious beliefs and will reasonably accommodate the same. An employee may request an accommodation when their bona fide religious belief requires a deviation from the City's dress code or the individual's work schedule, basic job duties, or other aspects of employment. The City will consider the request but reserves the right to offer an alternative accommodation or to deny accommodation when such accommodation would create an undue hardship for the City. Some, but not all, of the factors to be considered in determining whether a religious accommodation may be reasonably extended to an employee include cost, the effect that an accommodation will have on current-established policies, and the burden on City operations.

## **1.10 Definitions**

- 1.10.1 At-Will Employee. An at-will employee is an employee who serves at the pleasure of the City Manager and who may be removed as provided in Section 9.2 of this manual. All regular and temporary employees are considered at-will.
- 1.10.2 Contract Employee. An employee who works under a written Employment Agreement which is authorized by the City and sets the terms and conditions of employment. Contract employees may have employment terms that differ from those policies set forth in this manual, as expressly set forth in the Employment Agreement.
- 1.10.3 Exempt Employee. An employee who is paid a fixed salary, which salary is not dependent upon the actual number of hours worked by that employee during the subject month, and who otherwise meets the criteria for exemption from federal and state overtime laws (typically, an executive, administrative, or professional employee).
- 1.10.4 Non-Exempt Employee. An employee who is subject to the federal and state overtime laws. Such employees are eligible for overtime as applicable by law or policy.

- 1.10.5 Department Director or Department Head. Includes employees whose positions have “Director” in the title; these positions typically report directly to the City Manager. The Deputy City Manager and Assistant City Manager positions are also included in this definition.
- 1.10.6 Regular Full-Time Employee. An employee, hired by the City for an indefinite duration, who has completed their Work Trial Period, and who is regularly scheduled to work a minimum of forty (40) hours a week on a continuing basis.
- 1.10.7 Regular Part-Time Employee. An employee, hired by the City for an indefinite duration, who works less than forty (40) but at least twenty (20) hours a week on a continuing basis, and is eligible for pro-rated City benefits. Employees working for the City less than twenty (20) hours per week on an ongoing basis are not eligible for health insurance or retirement benefits (unless otherwise required by law) but may receive other benefits (such as prorated paid leave) at the City Manager’s discretion.
- 1.10.8 Job-share Employee. An employee, hired by the City for an indefinite duration, who shares a position with another employee and where both individuals sharing the position work a combined total of forty (40) hours in a workweek on a continuing basis.
- 1.10.9 Temporary Employees. Temporary employees are defined as those employees who hold jobs of limited duration arising out of special projects, seasonal work, internships, abnormal or peak workloads, the need to fill a vacant position for a limited term, on an interim basis, or for emergency staffing needs. Temporary employees are eligible for Washington paid sick leave benefits and in limited circumstances may receive certain City benefits, consistent with applicable plans and City Manager approval.
- 1.10.10 Working Trial Period. A period of not less than six (6) months duration, which shall be established at the time employment is offered, during which time the performance of the employee will be monitored and evaluated in order to determine the employee's suitability for employment beyond the working trial period.

## **1.11 Employee Personnel Records**

- 1.11.1 The primary personnel file for each employee is kept in a secure location and access to such file is limited. This is the only official personnel record kept by

the City. An employee's personnel file contains the employee's name, title and/or position held, job description, offer of employment, department to which the employee is assigned, salary, original employment application, changes in employment status and compensation, training record, performance evaluations, personnel actions affecting the employee, including discipline, resumes, certifications, letters of commendation, and other pertinent information.

- 1.11.2 An employee's medical records shall be kept in a confidential, separate medical file. Access to this file is limited to those managers with a strict need-to-know basis, typically limited to the City Manager, Human Resources Manager, department director (as may be applicable under the particular circumstances), and the employee.
- 1.11.3 An employee has the right to review their file at least annually, during regular business hours. Employees wishing to view their file should contact the Human Resources Manager to schedule an appointment to do so. An employee may submit a request to the City Manager to remove irrelevant or erroneous information in their personnel file. If the City Manager denies the employee's request to remove the information, the employee may file a written rebuttal statement to be placed in the file.
- 1.11.4 Personnel files are kept confidential to the maximum extent permitted by law. Except for routine verifications of employment, no information from an employee's personnel file will be voluntarily released to the public, including the press, without a written request for specific information with appropriate justification and notification of the request to the employee. However, the City's release of such documents is also controlled by Washington state law, including the Public Records Act, Chapter 42.56 RCW (the "PRA"). Subject to certain limited exceptions, that law is required to be broadly interpreted in order to effectuate the release of public documents. The City retains final authority with respect to the disclosure of documents in response to a request submitted under the PRA.

## **1.12 References**

- 1.12.1 The City may give references for existing and former employees, provided the information given is limited to the employee's dates of employment, position(s) held, duties, skill level, and work-related performance.



- 1.12.2 If a City employee is asked to give a reference for a current or former employee, the employee should consult with the Human Resources Manager before providing the reference.

## **2 HOURS AND ATTENDANCE**

### **2.1 Work Scheduling**

- 2.1.1 The City's standard work week is Monday through Friday from 8:30 a.m. to 5:00 p.m. with a one-half hour unpaid lunch period, and such breaks as required by law. However, with department director approval, individual work schedules may vary from this standard work week, based on operational and/or staffing considerations or needs.
- 2.1.2 A normal work schedule for regular, full-time employees consists of forty (40) hours each work week. Different work schedules may be established by the City to meet job assignments and provide necessary City services, or to comply with State or Federal laws. Each employee's department director will provide direction to the employee regarding the employee's specific working hours.
- 2.1.3 Part-time, contract, and temporary employees will work hours as specified by their department directors.
- 2.1.4 Flexible work schedules and teleworking may be permitted by the department director, provided that such alternative work scheduling and/or teleworking is done in a manner that fully meets the needs and requirements of the City and is approved by the City Manager. The standard work week may be adjusted to accommodate adjusted work schedules. Prior to allowing flexible work schedules or teleworking arrangements, the City Manager will develop and approve corresponding administrative policies and procedures to enable the implementation thereof.
- 2.1.5 Exempt employees are expected to manage their workload and schedules to maintain a regular work routine. However, exempt employees may reasonably adjust their hours in a week or other period of time when workload demands irregular or excessive hours. Nevertheless, it is not uncommon or unexpected that exempt employees work more than forty hours in any given work week; therefore, exempt employees should not expect hour-for-hour flex time for longer work hours, especially given that they are eligible for Executive Leave in return for the expectation of working longer hours.
- 2.1.6 With prior supervisor approval, non-exempt full-time employees may "flex" their time, hour-for-hour within the same workweek, when work hours during the

week are irregular or exceed eight on a given day (or days) in that week, provided that combined total regular time and leave time (if any) equal forty hours. For example, if an employee is scheduled to work at a City event in the evening which would cause them to work a twelve-hour day, they can, with supervisor approval and subject to the customer service coverage needs of the City, start their workday four hours later that day (or shorten other workday(s) in that same week).

## **2.2 Hours of Work and Overtime**

- 2.2.1 All City positions are designated as either "exempt" or "non-exempt" according to the Fair Labor Standards Act ("FLSA") regulations and state law for purposes of overtime compensation.
- 2.2.2 The regular work week is forty (40) hours within a consecutive seven (7) day period, commencing Sunday at 12:00 a.m. and ending at 11:59 p.m. the following Saturday, unless the employee's work week has been otherwise specifically adjusted, with the City Manager's approval.
- 2.2.3 Non-exempt employees are entitled to overtime compensation at the rate of one-and-one-half (1.5) times the employee's regular rate of pay for all time worked by them which exceeds forty (40) hours in a work week. For the purpose of calculating overtime, "time worked" shall include paid leave.
- 2.2.4 All overtime must be authorized in advance by the employee's Department Director; failure to obtain overtime approval prior to working the overtime (except in cases of a bona fide emergency in which pre-approval is not possible) is grounds for disciplinary action, up to and including termination of employment.
- 2.2.5 Exempt employees are ineligible for overtime pay or compensatory time. However, in the event of a declared emergency, exempt personnel may be entitled to additional compensation (e.g., straight time as cash or compensatory time) when they work more than forty (40) hours during a regular workweek, but only when explicitly set forth and authorized in the City Manager's declaration of emergency or subsequent documents related to the declared emergency and approved in writing in advance by the City Manager.

## **2.3 Compensatory Time**

- 2.3.1 Regular non-exempt employees entitled to overtime pay may request to receive compensatory time off instead of cash payment for such overtime. This request to receive compensatory time instead of cash payment is approved on a case-by-case basis by the employee's department director. If compensatory time is requested by the employee and approved by the department director, the employee is credited with one-and-one-half (1.5) times the hours worked as overtime. Maximum accruals of compensatory time shall be limited to eighty (80) hours for full-time employees (prorated for regular part-time employees). After the maximum compensatory time accrual is reached, overtime compensation shall be paid.
- 2.3.2 Employees may use compensatory time within a reasonable time after making a request to their department director, unless doing so would unduly disrupt City operations. Compensatory time should be used for short-term absences from work during times mutually agreed to by the employee and his/her department director. Accumulation of compensatory time to be used as a substitute for extended vacation time off is not normally permitted.
- 2.3.3 If an employee is unable to use accrued compensatory time within a reasonable time period, the employee will be paid their original overtime wage.
- 2.3.4 Exempt employees are not covered by the FLSA compensatory time provisions and are not eligible for compensatory time, except as allowed in Section 2.2.6. Temporary and seasonal employees shall not be eligible for compensatory time.

## **2.4 Attendance**

- 2.4.1 Punctual and consistent attendance is a condition of employment. Each supervisor is responsible for maintaining an accurate attendance record of their employees.
- 2.4.2 Employees unable to work or unable to report to work on time should notify their supervisor or department director as soon as possible, but no later than thirty (30) minutes before the employee's usual starting time, unless a bona fide emergency situation prevents the employee from providing such notification, in which case the notification should be provided as soon as reasonably possible. If an absence continues beyond one day, the employee is responsible for notifying the supervisor or department director each day

(unless the employee has otherwise provided a medical certification in connection with such absence). If the supervisor is unavailable, the employee may leave a message for their supervisor, stating the reason for being late or unable to report for work.

2.4.3 Employees are expected to be at work during inclement weather, provided they can safely do so. Department directors may allow employees to be late or leave early during inclement weather conditions; department directors may also direct or allow employees who are already approved and set up for a teleworking arrangement to work from home during inclement weather. In particularly hazardous or severe weather conditions, the City Manager may, at their sole discretion, close City Hall, City offices, and non-emergency facilities and services and direct employees who are not responding to the inclement weather conditions not to come to work. In those situations, employees will be expected to work from home if they are set up and approved for a teleworking arrangement. All other employees may claim the day as an inclement weather day and be paid for a full day of work. If there is no direction from the City to stay home, arrive late, or leave early, non-attendance will be counted as absence from work and will be charged to accrued vacation time or compensatory time, or will otherwise be unpaid for non-exempt employees.

2.4.4 An employee who is absent without authorization or notification is subject to disciplinary action, including possible termination.

## 2.5 Breaks and Meal Periods

Employees may take one (1) fifteen-minute paid break for every four hours worked. All breaks shall be arranged so that they do not interfere with City business or service to the public. Breaks cannot be used at the start or end of the day (or to shorten the workday). Meal periods shall be scheduled by the employee's supervisor or department director. The scheduling of meal periods may vary depending on department workload and coverage needed to serve the public. Meal periods are unpaid and are usually one-half hour to one hour in length. Longer meal periods may be approved by the supervisor on long workdays (such as City Council meeting days), provided that work and coverage is not disrupted, and the work of others is not negatively impacted.

## 2.6 Emergencies

2.6.1 In the event of an emergency, the City must continue to provide essential public services. Therefore, employees must make every reasonable effort to report to

work if they can do so without endangering their personal safety or the safety and/or health of co-workers and the public. During an emergency, the City Manager may modify work schedules, direct that staff work from alternate locations, telecommute, change methods of work, or take other appropriate action to meet the needs of the organization, the City and to ensure that City-provided services are maintained.

During periods of emergency, employees may be given emergency services assignments and work schedules other than their normal work assignments, direct reports, and schedules. The City Manager may waive or modify City policy in light of the nature of the emergency.

In preparation for emergencies, employees are expected to complete the National Incident Management System training that is appropriate for their position. Employees are also expected to participate in emergency preparedness exercises and planning.

- 2.6.2    **Callback.** All employees are subject to callback in emergencies or as otherwise needed by the City to provide necessary services to the public. A refusal to respond to a callback is grounds for disciplinary action, up to and including possible termination. Non-exempt employees who are physically called back to duty will be paid the appropriate rate of pay for hours worked (including the overtime rate, if applicable), with a minimum three (3) hours callback pay. The callback shall begin at the time the employee is called back to work and shall end when the employee returns directly home from the work site. If the callback exceeds the three-hour minimum, the employee shall be paid the applicable rate of pay for the time actually worked by the employee. If an employee is called to work early or required to stay late, at the beginning or end of a shift, the employee shall not be entitled to the three (3) hour minimum, as long as such hours are contiguous with the employee's shift. For callback work that may be performed remotely via computer, phone, or other electronic means, employees shall be paid for the time actually spent on the remote work, with a minimum of one hour, provided, that multiple calls that may be handled remotely shall not each be subject to a one-hour minimum but shall be cumulative. To the extent that multiple remote calls exceed the one-hour minimum, the employee shall be paid only for the time actually worked on all such calls. Employees are responsible for accurately recording the duration of their callback computer usage, telephone calls, and/or other electronic usage for compensation purposes. All callback hours shall be paid the appropriate

overtime rate, if applicable. Providing support to planned City events is not eligible for call-back pay.

- 2.6.3 **Stand-by Pay.** Stand-by time is not compensable time. However, an employee who is required to be on stand-by time and subject to callback shall receive a stand-by allowance of fifty-five dollars (\$55) per day, while on stand-by. The City Manager may, at the City Manager's discretion, annually increase this stand-by pay daily rate by up to the same percentage as the annual cost-of-living wage increase granted to employees (see Section 4.3.8). Such increase, if given, shall be prospective and not retroactive. Only one employee at a time shall be designated as being on stand-by to receive this allowance, unless otherwise determined by the department head or City Manager. The department head or the City Manager will designate the stand-by employees. Employees on vacation, out on sick leave, or any other paid leave may receive the stand-by allowance if they can be available after working hours and comply with the conditions that follow in this section. While on stand-by, employees are required to carry a City cell phone at all times and be ready and able to promptly respond to calls. While on stand-by duty, employees are required to be within a one-hour driving distance of the City and must refrain from using alcohol and/or drugs, consistent with the City's Substance Abuse Policy 8.12. The City Manager, at the City Manager's discretion, may allow an employee on stand-by duty to take a City vehicle home to more quickly respond to calls while on stand-by duty. Such decision shall be based on the business needs of the City and the safety needs of the community. Such decision shall rely on relevant data such as callout frequency, distance, liability to the City, and improvements in response times. If the City Manager allows a take home vehicle for stand-by duty, the City Manager or designee will first develop and approve corresponding administrative policies and procedures to enable the implementation thereof.
- 2.6.4 **Emergency Stand-by Pay.** An employee who is required to be on emergency stand-by for inclement weather or other large-scale emergencies, as declared by the City Manager or the City Manager's designee, shall receive an emergency stand-by allowance of sixty-five dollars (\$65) per day while on emergency stand-by duty. The City Manager may, at the City Manager's discretion, annually increase this emergency stand-by pay daily rate by up to the same percentage as the annual cost-of-living wage increase granted to employees (see Section 4.3.8). Such increase, if given, shall be prospective and not retroactive. Multiple employees may be placed on emergency stand-by at one time. The department

head or City Manager will designate emergency stand-by employees. If an employee is called back while on emergency stand-by, the call-back provisions of Section 2.6.1 (along with the general overtime policy set forth in Section 2.2.5 above) shall apply.

## **2.7 Payroll Records**

- 2.7.1 The official records are kept by the Finance and Administration Director, or designee.
- 2.7.2 Each employee is required to submit a biweekly work record (i.e., time sheet) which records the hours worked, overtime worked (if eligible), and any leave taken. Department directors or supervisors as designated by the department director will sign these work records. The City Manager will approve work records for exempt and non-exempt employees that directly report to the City Manager. Supervisors will delegate work record approval when they are not available.
- 2.7.3 By signing or electronically submitting the work record, the employee certifies that the information is true and correct. "Signing" a work record includes electronically submitting and also electronically approving the work record.



### **3 RECRUITING AND HIRING**

#### **3.1 Recruiting**

- 3.1.1 Recruiting is based entirely on ability, merit, qualifications, and competence, without regard to race, color, religion, national origin, sex, sexual orientation, gender identity or expression, marital status, pregnancy, physical handicap, disability, age, or any other basis protected by local, state, or federal law.
- 3.1.2 Each applicant shall complete and sign (or electronically submit) an application form prior to being considered for any position (except in circumstances such as an internal recruitment). Resumes may supplement, but typically do not replace, the City's official application. The application shall become a part of each employee's permanent personnel record. In some cases, such as an emergency hire or internal recruitment, the City may accept a resume in lieu of a completed application.
- 3.1.3 Any applicant supplying false or misleading information is subject to disqualification or immediate termination, if hired.
- 3.1.4 The City is committed to providing service to its residents through highly qualified personnel. The City typically conducts a competitive, open recruiting and selection process which encourages the participation of both current qualified City employees and applicants who are not currently employed by the City. In unique or exigent circumstances, the City Manager, at the City Manager's discretion, may forego a competitive recruitment process and directly hire a qualified candidate.

#### **3.2 Hiring**

- 3.2.1 When a position becomes vacant and prior to any posting or advertisement of the vacancy, the department director shall review the position, its job description, and the need for such a position. The department director will prepare and submit to the City Manager a written request to fill the position. The City Manager may choose to open a position recruitment to internal candidates (current City employees) only. When a position announcement is posted externally, it will also be announced internally to current City employees.
- 3.2.2 Residency within the City shall not be a condition of initial appointment or employment (the City Council may, however, require that the City Manager

reside in the City); provided, however, that an employee's selection of residence shall not interfere with the daily performance of the employee's duties and responsibilities.

- 3.2.3 Applicants for positions in which the applicant is expected to operate a motor vehicle must be at least 18 years old and will be required to present a valid Washington State driver's license with any necessary endorsements. Driving records of applicants may be checked. Applicants with poor driving records, as determined by the City, may be disqualified for employment with the City in positions requiring driving.
- 3.2.4 The City may administer pre-employment examinations to test the qualifications and ability of applicants, as determined necessary by the City. The City may contract with any competent agency or individual to prepare and/or administer examinations.
- 3.2.5 The City may, when it determines that there is a business necessity to do so based on the particular duties and responsibilities of the position, conduct a background check (including criminal and/or credit checks) on prospective applicants. Such checks will be performed in the later stages of the hiring process, typically when the final candidate(s) for the position has/have been selected. In certain cases, the City may retain a third party (such as a consumer reporting agency) to perform such background checks, in which case the agency shall provide the applicants with the notices and disclosures applicable to such checks.
- 3.2.6 After an offer of employment has been made and prior to commencement of employment, the City may require persons selected for safety-sensitive positions or positions with required physical requirements to successfully pass a functional assessment test and/or medical examination, which may include testing for alcohol and controlled substances. The purpose of the functional assessment test and/or examination is to determine if the individual is physically able to perform the job and to ensure his/her physical condition will not endanger the health, safety, or well-being of other employees or the public. The offer of employment may be conditioned on the results of the examination and/or functional assessment test.
- 3.2.7 A candidate may be disqualified from consideration if: (1) found physically and/or mentally disabled and unable to perform the essential duties of the

position, with or without reasonable accommodation; (2) when required pursuant to a bona fide occupational qualification the candidate refuses to submit to a post-offer medical examination or to complete medical history forms; or (3) if the employee's drug and alcohol test detects the presence of controlled substances and/or alcohol in the employee's system; (4) a reference check fails to confirm an individual's stated qualifications or a background check reveals information which indicates that an individual's prior performance, criminal record, or activities are incompatible with public employment. If an applicant is determined to be disqualified from further consideration based on a negative criminal history, the applicant will be given an opportunity to present any additional information or explanation that the applicant believes mitigates against such disqualification.

### **3.3 Temporary Employees**

- 3.3.1 With approval of the department director, temporary employees may be hired for internships, seasonal work, special projects, emergencies or other peak workload periods. Temporary employees may also be hired to temporarily replace regular employees absent due to disability, illness, vacation, or other approved leave, or to temporarily fill a vacancy until a regular employee is hired.
- 3.3.2 Temporary employees may be hired without competitive recruitment or examination. For example, returning seasonal employees may forego competitive recruitment.
- 3.3.3 Temporary employees are eligible for overtime pay and paid sick leave, as required by law. Temporary employees whose employment is expected to last less than one year are typically not eligible for City benefits unless otherwise required by law. The City Manager may but is not obligated to allow benefits (such as leave accruals, health insurance, retirement, etc.) for temporary employees who are expected to work for the City for more than one year and up to two years (provided they work the minimum number of hours to qualify for benefits and provided the rules of the benefit plans permit it).

### **3.4 Job-Share Employees**

- 3.4.1 Job sharing shall be implemented, and thereafter continued, only upon the approval of the supervisor and the department director of the relevant position(s), as well as the City Manager.

3.4.2 Schedule. Employees will share a full-time position on a half-time basis using a work schedule that is agreed upon by both the department director and the employees. Examples of schedules that may be used are:

- Each employee works four (4) hours per day.
- Each employee works forty (40) hours in alternating weeks.
- Each employee works twenty-four (24) hours one week and sixteen (16) hours the alternate week.
- Each employee works two and one-half (2 ½) days per week.
- The two employees' work schedule equals a combined forty (40) hours per week.

A regular work schedule shall be agreed upon by the employees and approved by the supervisor. Any alterations to the regular work schedule, both permanent and temporary, will be made in writing by both employees and must be approved by the supervisor prior to changes being implemented.

3.4.3 Coordination. The employees will be expected to coordinate with each other so that the responsibilities of the position, customer service, and the level of required productivity are not adversely affected.

3.4.4 Compensation. Each employee will be paid based on that individual's experience and qualifications and within the salary range (prorated) established for the position.

3.4.5 Benefits. Provided each job share employee works the minimum number of hours to qualify for benefits, and provided they are eligible under the applicable benefit plans, each job-share employee will be entitled to the following benefits:

- Vacation, sick leave, and holidays will be accumulated on a pro-rated basis (e.g., 50%);
- Medical, dental, vision insurance, and orthodontia coverage on a pro-rated basis (e.g., 50%);
- Life insurance and long-term disability paid for in full by the City.
- Participation in the State retirement program (PERS) and the City's Social Security Replacement Plan 401(a); and
- Participation in other employee programs, including but not limited to the Employee Wellness Program and Employee Assistance Program.

- 3.4.6 Within a reasonable margin as determined by the City Manager, benefit totals will not exceed the amount of the normal premiums paid by the City on behalf of a regular full-time employee.
- 3.4.7 Vacancy. In the case of a permanent vacancy of one of the job-share employees, the continuation of the job-share position will need to be re-evaluated by the supervisor and department director at that time. The other employee may have the option to work full-time or agree to another part-time work schedule that is approved by the supervisor and department director. The City may evaluate, at any time, the effectiveness of the job-share arrangement and convert the position back to a regular full-time position.

### **3.5 Work Trial Period**

- 3.5.1 All newly hired employees, former employees who have been rehired, and existing employees who have been promoted to a new classification enter a “work trial period” which is considered an integral part of the selection and evaluation process. During the work trial period an employee is required to demonstrate suitability for the position through actual work performance.
- 3.5.2 The normal work trial period is six (6) months from the employee’s date of hire, rehire, or promotion; however, longer periods may be established for positions requiring technical, professional, specialized, unusual, or unique skills or qualifications.
- 3.5.3 An employee’s work trial period may be extended for up to an additional six (6) months (when needed due to circumstances such as extended illness, a need to continue to evaluate marginal performance, or for any other purpose as deemed necessary by the employee’s supervisor) to properly evaluate the employee’s performance. A performance evaluation shall be conducted at the end of the first six months and another at the successful completion of any extended work trial period. The work trial period will not be shortened for any reason.
- 3.5.4 When a department director determines an employee has satisfactorily completed the work trial period, the department director should prepare a written performance evaluation, which will be reviewed by the City Manager. Satisfactory completion of the working test period is a positive sign that the employee’s performance is acceptable and that employment with the City beyond the working test period is probably appropriate; however, satisfactory

performance during the working test period does not guarantee future performance, and suitability for the job can be evaluated at any time. The employee should normally receive an annual evaluation one year after the hire date, which becomes the employee's anniversary date, and annually thereafter to determine the employee's suitability for appointment beyond the working trial period.

### **3.6 Employment of Relatives (Nepotism)**

3.6.1 Relatives of existing City Councilmembers will not be employed by the City.

3.6.2 Relatives of existing City employees, will not be employed by the City under any of the following circumstances:

- Where one of the parties would have authority (or practical power) or influence to supervise, appoint, remove, promote, increase or decrease compensation, or discipline the other;
- Where one party would be responsible for auditing the work of the other;
- Where both parties would report to the same immediate supervisor;
- Where other circumstances might lead to potential conflict among the parties or conflict between the interest of one or both parties and the best interests of the City; or
- Where, in order to avoid the reality or appearance of improper influence or favor, or to protect its confidentiality, the employer must limit the employment of close relatives of policy level officers of customers, competitors, regulatory agencies, or others with whom the employer deals.

3.6.3 For purposes of this Nepotism Policy, the term "relatives" includes persons who are related to a Councilmember or employee by blood or law, or whose relationship with the Councilmember or employee is similar to that of persons who are related by blood or law, including spouses, domestic partners (including persons cohabitating in a romantic relationship), parents, children, siblings, grandparents, grandchildren, aunts, uncles, nieces, nephews, and first cousins, and corresponding "in-law" and "step" relations.

3.6.4 If two employees marry, become related, or begin sharing living quarters with one another, and in the City's judgment, the potential conflicts noted above exist or reasonably could exist, only one of the employees will be permitted to continue employment with the City, unless reasonable accommodations, as determined by the City Manager or the City Manager's designee, can be made

to eliminate the potential conflict(s). The decision as to which employee will remain with the City must be made by the two employees within thirty (30) calendar days of the date they marry, become related, or begin sharing living quarters with each other. If no decision has been made during this time, the City Manager reserves the right to terminate either employee, based on the business needs of the City.

### **3.7 Promotions and Transfers**

- 3.7.1 The City encourages current City employees to apply for vacant City positions for which they are qualified. Promotions and transfers are based on the department director's recommendation, work force requirements, performance evaluations, job descriptions, and related City requirements.
- 3.7.2 Regular employees are eligible for promotion, transfer, or voluntary demotion. To be considered for another position, an employee should possess the qualifications for the vacant position, unless such requirements are waived by the City Manager in the best interests of the City.

## 4 WAGES

### 4.1 Compensation Philosophy

- 4.1.1 The City values its employees as vital in meeting its organizational mission and serving the community. Within available budgetary resources and in compliance with all applicable rules and laws, the City seeks to attract and retain well-qualified, productive employees through a total compensation philosophy which is driven by the following principles and processes:
- 4.1.2 Establish wage levels for positions on the basis of internal equity (considering comparable positions and/or duties within the organization) and external competitiveness (comparing City positions with comparable outside labor markets).
- 4.1.3 Maintain a system that provides for uniformity in initial wage determinations and subsequent wage increases and administer the wage plan equitably and consistently.
- 4.1.4 Recognize that total compensation includes base pay, benefits, paid time off, and other economic components when determining market competitiveness.
- 4.1.5 Maintain high expectations of performance and reward employees who meet these with annual pay increases that recognize an employee's knowledge, skills, longevity, and performance.
- 4.1.6 Subject to revenue limitations, market conditions, and City Council approval, provide employees annual Consumer Price Index ("CPI")-based cost-of-living adjustments.
- 4.1.7 Establish a periodic review of the City's compensation system to assess market competitiveness and the effectiveness of the City's system in attracting and retaining employees.
- 4.1.8 Assist employees in understanding their wages and benefits through clear communications.



## **4.2 Wage Ranges and Wage Plan**

- 4.2.1 Wage Plan. Each position within the City is assigned a general pay range for wage purposes, based on internal comparable equity, comparable pay of similar positions in comparable cities (see Section 4.2.2), job qualifications, level of responsibility, level of difficulty, working conditions, skill, and amount of supervision and discretion required by the specific job title. Each position's pay range will be shown on the City's wage plan, which is approved annually as a part of budget adoption by the City Council.
- 4.2.2 Wage Study and Pay Range Adjustments. In furtherance of economic competitiveness, the City conducts a market study of wage ranges from time to time, usually every other year and coinciding with the year the biennial budget is prepared. Such study reviews the duties and wage ranges of some or all of the City's positions and compares them to the City's list of comparables. Based on the results of the market study, internal equity, and other operational and business-related considerations, the City Manager may recommend, and the City Council may approve or deny, adjustments to the wage plan.

In evaluating the relevant labor markets, the City (usually with the assistance of a compensation consultant, as it deems necessary and/or appropriate), shall maintain a list of comparable cities in the Puget Sound region that are determined to be substantially similar to the City using criteria such as geographic competition (e.g., cities that compete for the same labor pool), service level (i.e., full service v. contract city), number of employees employed, existing departments and positions, resident population/area served, and economic measures (such as assessed valuation, retail sales, and annual budgets). The City's list of "comparables" may be adjusted from time to time, in the City Manager's discretion, based on fluctuations in the labor markets and comparable jurisdictions.

For each position's wage range, the City uses the median top step of the wage ranges of comparable positions from the City's list of comparable cities to compare to the existing wage range. If the top step of a City wage range is within 10% of the median, the range typically will not receive a market adjustment and the range will increase by the amount of the Council-approved cost of living adjustment (if any) in the following year. If the top step of a range is more than 10% below median, the top step will typically be increased to the median top step, plus any Council-approved cost of living increase effective the following year. If the top step of a salary/wage range is more than 10% above

the median, the top step will be adjusted down to 10% above the median and the range will receive the Council-approved cost of living adjustment effective the following year. All range adjustments, including cost of living adjustments, are subject to City Council approval and will go into effect the year following the study (unless otherwise approved by the City Council). The Council retains the discretion to deviate from these standards when it determines it appropriate to do so under the particular circumstances.

The bottom end of wage ranges for all regular City positions will typically be set at 27% below the top step and shall be calculated as follows:  $(\text{Top Step}) \times (1/1.27) = \text{bottom step}$ .

- 4.2.3 If a range adjustment causes an employee's pay to be below the bottom step of the pay range, the employee's pay shall be brought to the bottom step of the adjusted range. If the effective date of the annual cost of living increase and a pay range adjustment are the same, the employee will receive the greater of the cost-of-living increase or the bottom step of the new range (not both).
- 4.2.4 If a range adjustment causes an employee's pay to be above the top step of the new pay range, the employee's pay will be frozen, meaning the employee's pay will remain higher than the top step of the pay range but the employee shall not receive annual merit increases while the employee's pay is higher than the top step. However, the employee will continue to receive annual cost of living increases granted to other employees and approved by the City Council.
- 4.2.5 Due to the relatively small size of the organization and unique nature of our organization and the services we provide, not all positions will have comparable positions in all comparable cities. If there are at least four comparable cities on the established list with comparable positions for a City position, the City will use those comparable positions to determine a median top step. If there are less than four, the City will rely primarily on internal equity considerations, including level of responsibility and skill set required for the position.
- 4.2.6 Before presenting a proposed new wage plan for the following year to the City Council, the City Manager or designee will provide the market study results and the draft proposed plan for employees to review. Employees will be given at least a week to review the study and the proposed wage plan and propose

position-specific adjustments based on current year data from the list of market comparable cities.

- 4.2.7 Note that the biennial market study is not a precise evaluation of wage ranges and their position in the market. The study is intended to produce wage ranges in the “ballpark” of the market comparable cities, and there will often be some degree of subjectivity in determining final salary and wage ranges. The overall intent of the market study is to pay employees fairly and competitively in comparison to the market.

### **4.3 Employee Pay Rates**

- 4.3.1 Wage Limits within Pay Range. Employees shall be paid within the parameters of the wage range to which their positions are assigned, unless the City Manager, in the City Manager’s discretion, determines that based on internal equity, external competitiveness, labor market conditions, or other operational considerations, it is appropriate to place an employee outside of the normal wage range for the position.
- 4.3.2 Starting Pay Rate. In consideration of the City’s budget, new employees will typically be paid at the lower end of the range for their position. However, the City Manager may approve hiring a new employee within a higher step or range when the City Manager determines that the employee’s experience, training, skills, or proven capability warrant, or when prevailing market conditions justify a starting wage greater than the lowest step.
- 4.3.3 Annual Merit Increases. Annual merit-based pay increases are typically awarded on the employee’s anniversary date. Annual merit pay increases are based on individual performance and range from 0% to 4% of the employee’s current rate of pay, as determined appropriate by the City, and subject to the upper limit of the employee’s wage range. Annual merit pay increases are awarded as part of the annual performance evaluation process. Merit increases are contingent upon satisfactory performance. If an employee’s performance is consistently unsatisfactory, the department director, in consultation with the City Manager, may choose to not grant a pay increase or may choose to defer a scheduled merit pay increase for a stipulated period of time or until the employee’s job performance is satisfactory. The City Manager may approve other annual increases in certain circumstances to remain competitive (e.g., annual increases for temporary employees).

The general parameters in awarding the 0% to 4% merit increase for the evaluation period is as follows:

- 0%: Overall performance was not satisfactory during the evaluation period and the employee was/is subject to discipline, a performance plan, or other method to improve performance.
- 1% to 2%: Performance in most essential functions was generally satisfactory during the evaluation period, but one or more notable areas of the employee's responsibilities needed (or still need) improvement.
- 3%: Overall performance was satisfactory; employee generally met the expectations of the position and generally followed the policies, values, and service vision of the City.
- 4%: Overall performance was excellent; employee exceeded expectations in one or more areas of responsibility, had a consistent positive attitude, took initiative by bringing forward new ideas to improve processes and service delivery, worked well with others, and modeled the City's policies, values, and service vision.

4.3.4 Reclassifications. Out of class wage adjustments may be considered when an employee and/or their supervisor believe(s) that the majority of duties and responsibilities being consistently performed by the employee are at a level that exceeds the duties/responsibilities set forth in the employee's job description and justifies the employee being placed at a higher wage range. The process for requesting an out of class wage adjustment is as follows: The employee and/or their supervisor shall prepare a memo that outlines their current duties and describes how the majority of those duties, on a consistent and ongoing basis, are being performed at the higher compensation range. The memo shall include a discussion of the job description of the employee's current position and the job description of the higher-level position, and how the job description compares to the employee's actual duties and responsibilities. The department director, Human Resources Manager, and City Manager will review and consider the proposal as described in the memo. Within approximately thirty days after the memo is submitted, the City Manager will determine whether the out of class wage adjustment request should be granted. If approved, the employee may be placed in a position with the appropriate wage range, where applicable, and an out of class wage adjustment will typically result in a four percent (4%) compensation increase or an increase to the lowest step of the new wage range, whichever is greater. Out of class wage adjustment requests shall not be granted retroactively. The out

of class wage adjustment will not change the employee's anniversary date for merit increase purposes.

- 4.3.5 Promotions. When an employee is promoted to a position with a higher salary range, the employee's pay rate will increase by four percent (4%) or to the lowest step of the new wage range, whichever is greater. The employee's new anniversary date for merit increase purposes will be the effective date of the promotion.
- 4.3.6 Internal Equity Adjustments. In rare cases and when justified, the City Manager may, in the City Manager's discretion, prospectively adjust salaries for reasons of internal equity and fairness. Prior to final approval and implementation, such increases and the reasons for the internal equity adjustment shall be documented and be reviewed by the Human Resources Manager and the City Attorney (or designee who is also an attorney). An internal equity adjustment will not change the anniversary date for merit increase purposes.
- 4.3.7 Temporary Acting Supervisor Pay. When supervisors and those in management take time off or there is a vacancy in a supervisory or management position, an employee within the applicable department may be designated as acting supervisor or department head (or acting City Manager). When employees serve as an acting supervisor or department head (or acting City Manager) for three or more consecutive work weeks, the employee will receive a four percent (4%) pay increase for the duration of the time served as acting supervisor/department head (or acting City Manager). The four percent increase shall be subject to the upper limit of the applicable supervisor's/department head's pay range (or in the case of acting City Manager, the acting City Manager will receive a four percent (4%) pay increase regardless of salary range limitations). Non-exempt employees stepping into a temporary acting supervisor role will generally retain their non-exempt status.
- 4.3.8 Annual Cost of Living Adjustments. Subject to market conditions and revenue limitations, the City Manager may propose, and the City Council may grant an across-the-board pay adjustment (cost-of-living increase) annually, raising the wages of all positions by a specified amount, or within a defined group of positions. The annual wage adjustment is at the City's discretion, will typically go into effect on January 1 of the following calendar year, and will be based on, but not necessarily identical to, the Seattle-Tacoma-Bremerton Consumer Price Index (CPI-W) average (June to June).

#### **4.4 Paydays and Method of Payment**

- 4.4.1 The City has twenty-six (26) pay periods each year. Paydays are on Fridays, occurring on a bi-weekly basis.
- 4.4.2 Pay periods encompass two work periods as defined in Section 2.2.2.
- 4.4.3 An exception to the City's normal payroll schedule occurs when the scheduled payday falls on a holiday. For a payday that falls on a holiday, the payday will be on the regular workday preceding the holiday. However, payday during the week of Thanksgiving will be on the Friday after Thanksgiving Day.
- 4.4.4 The City requires direct deposit to a bank for all employees.

#### **4.5 Deductions**

Some regular deductions from the employee's earnings are required by law; other deductions are specifically authorized by the employee. The City will withhold from the employee's paycheck those deductions required by law and any voluntary deductions authorized in writing by the employee, or statute, and authorized by the City Manager or Finance Director.

#### **4.6 Travel Away from the City**

All travel activity shall conform to the Travel Policies adopted by the City Council.

#### **4.7 Compensation upon Separation of Employment**

When an employee separates employment with the City, the employee will receive the following compensation:

- Regular wages for all hours worked up to the time of termination which have not already been paid.
- Any overtime or holiday pay due through the termination date.
- A lump sum payment of any accrued but unused vacation and compensatory time.
- Unused sick leave shall be paid per Section 6.3; provided that in the case of an involuntary termination by the City (not including a termination due to a reduction in force or lack of work), the employee will not be paid any accrued sick leave.

## 5 BENEFITS

### 5.1 Retirement Benefits

- 5.1.1 The City makes contributions on behalf of all eligible employees to the 401(a) Defined Contribution Social Security Retirement Replacement Program in lieu of Social Security System, in addition to those contributions made by the employee through payroll deductions. 401(a) plan eligibility, contribution rates, and other details are found in the 401(a) plan document. Employees not eligible for the 401(a) plan will contribute to Social Security.
- 5.1.2 All regular full-time and eligible part-time non-uniformed employees are covered under the Public Employees Retirement System (PERS). Participation requirements, benefit levels, and contribution rates are set by the State of Washington.
- 5.1.3 The City participates in a 457 deferred compensation program. Employees are permitted to make voluntary contributions into 457 retirement programs, subject to plan document rules. The City Manager may recommend, and the City Council may approve qualified 457 plan providers.
- 5.1.4 A retirement plan committee made up of City employees meets regularly, with the help and advice of a retirement plan consultant, to review the defined contribution retirement plans and meet the fiduciary responsibility of the City.
- 5.1.5 Employees intending to retire should notify their department director of their intent to retire as early as possible to provide for an orderly transition.
- 5.1.6 The City reserves the right to modify or withdraw all benefits, including retirement benefits, at any time.

### 5.2 Disability Benefits

- 5.2.1 All employees are covered by the State Industrial Insurance program, and the City may choose to participate in a multi-employer pool or consortium to manage workers' compensation claims. This type of insurance covers employees in case of on-the-job injuries or job-related illnesses. For qualifying cases, State Industrial Insurance will pay the employee for workdays lost for any disability resulting from job-related injuries or illnesses, subject to

applicable law. All job-related accidents should be reported immediately to the appropriate supervisor.

- 5.2.2 When an employee is absent for one or more days due to an on-the-job accident or illness, the employee is required to file a claim for Workers' Compensation. If the employee files a claim, the City will continue to pay (by use of the employee's unused sick leave) the employee's regular salary pending receipt of Workers' Compensation benefits.
- 5.2.3 When the employee receives Workers' Compensation benefits, the employee is required to repay to the City the sick leave amount covered by Workers' Compensation and previously advanced by the City. Upon such payment, the employee's correlating sick leave will be credited back to the employee's sick leave account. This policy is to ensure that employees will receive prompt and regular payment during periods of injury, illness, or disability so long as accrued sick leave is available, while ensuring that no employee receives more than the employee would have received had the injury or illness not occurred. Employees should understand that repaid sick leave is not PERS-reportable hours or wages; it is therefore important that the employee contact the Washington State Department of Retirement Systems directly to ensure that the repaid sick leave is not incorrectly reported/recorded.
- 5.2.4 The City may require an independent medical examination, at its expense and to be performed by a care provider of its choice, to determine if/when the employee may be cleared to return to work and if the employee will be capable of performing the essential functions of the position, with or without reasonable accommodation.
- 5.2.5 An employee receiving Workers' Compensation time loss benefits shall continue to accrue vacation leave and sick leave for a period not to exceed six (6) months and the City will continue to pay for the usual health, dental, and life insurance coverage for a one-year period; provided, the employee remains employed with the City.

### **5.3 Insurance Benefits**

- 5.3.1 Regular full-time employees, some temporary employees (subject to Section 3.3.3), and some part-time and job-share employees are eligible to participate in the City's insurance programs (temporary employees and part-time or job share employees should contact Human Resources with questions relating to



their eligibility). These include medical, dental, and vision insurance, health reimbursement account (HRA), health savings account (I), flexible spending accounts, life insurance, and long-term disability insurance. The City may choose to contribute to the employees' HRA and I accounts, at the City's discretion. The City's annual contribution amounts to the I and HRA accounts are usually set forth in the City's adopted budget. If the I and HRA amounts are not stated in the adopted budget, the annual contribution amount from the prior year will apply. The City also provides a flexible spending account (FSA) program (i.e., Section 125 Cafeteria Plan), but any contributions to FSAs are made by the employee and not the City.

- 5.3.2 Life insurance benefits are equal to one times (1x) the employee's annual salary, capped at \$150,000. Through December 31, 2014, \$100,000 additional life insurance was offered at employer expense. This program was discontinued for all employees hired after January 1, 2015. Details regarding the City's medical, dental, and vision coverage may be found in the applicable plan summaries.
- 5.3.3 The programs and criteria for eligibility will be explained at the time the employee becomes eligible to join. The City reserves the right to make changes in the carriers and provisions of these programs or to eliminate them, when deemed necessary or advisable.
- 5.3.4 Upon mutual agreement between the employee and the City, and in accordance with the terms and conditions of the insurance policy, the City may continue health insurance coverage, at the employee's expense, during an approved unpaid leave of absence. Continued insurance coverage provided for by Federal Law (COBRA) may apply in the event coverage is not extended through the City.
- 5.3.5 While an employee is receiving Workers' Compensation benefits, the City will continue to pay the employee's health insurance premiums for up to one (1) year (provided, the employee remains employed by the City), after which the employee may choose to use his/her COBRA rights and self-pay insurance premiums.
- 5.3.6 Upon an employee's termination from City employment, at the employee's option and expense, the employee may elect to continue City health insurance benefits to the extent provided under COBRA. Continuation rights are not available if an employee is terminated for "gross misconduct." An

administrative handling fee over and above the cost of the insurance premium may be charged to the employee or his/her dependents who elect to exercise their COBRA continuation rights.

- 5.3.7 Regular full-time employees hired prior to January 1, 2005, will receive medical insurance coverage for the employee and eligible dependents, fully paid by the City. Regular full-time employees hired on or after January 1, 2005, are subject to paying 10% of spouse and/or dependent medical premiums (deduction from the employee paycheck); the balance to be paid by the City. Dental and orthodontia insurance premiums for regular full-time and part-time employees are fully paid by the City, regardless of hire date. Part-time employees who are eligible for benefits will receive medical, dental, and orthodontia insurance benefits on a pro-rata basis.
- 5.3.8 In lieu of the City's medical insurance program, a regular full-time employee hired prior to August 1, 2003 will receive up to the same contribution of \$724.45 per month (defined as the 2003 medical insurance premium for employee, spouse, and one dependent) from the City toward a Section 457 (Deferred Compensation) plan or Section 125 benefit plan. These plans must be pre-approved by the City. The employee may also choose to purchase vacation hours with the unused portion of the medical insurance contribution, up to \$724.45 per month. The purchase of vacation hours will be based on the employee's regular hourly rate and any hours purchased will be added to the employee's vacation hour bank. The amount of purchased vacation hours, when added to an employee's normal accrual, shall not exceed an accrual of 30 days per year. For example, if an employee is accruing 15 vacation days per year based on 5 years of service, that employee can accrue up to an additional 15 days of vacation. The total vacation accrual rate cannot exceed 30 days at any time during the year.
- 5.3.9 Job-share employees will receive insurance benefits as prescribed in Section 3.4.5.

## **5.4 Wellness Program**

- 5.4.1 Employee Wellness Program. To reduce absenteeism and to promote employee health and productivity, the City encourages employee wellness through various City-sponsored, voluntary activities and programs. City funds are allowed to be used for providing a wellness program and activities, including but not limited to food, awards and incentives for participation, and

materials and equipment for City employees. These benefits shall be a fringe benefit accruing to the employee by virtue of employment with the City and shall not be considered part of the employee's regular rate of pay.

5.4.2 Wellness Program Overview.

5.4.2.1 The City established an Employee Wellness Program in 2003 and confirmed its commitment to the program by adoption of Resolution 03-078. This program provides incentive awards designed to encourage and reward employee participation in the program. Participation awards and incentives for employees may include gift cards, gifts, prizes, and other items of value to recognize employee participation in wellness activities.

5.4.2.2 Participation in the City's Employee Wellness Program is voluntary and shall be limited to employees insured on the City's medical plans.

5.4.2.3 Whenever possible, the City's Wellness Program will be provided at low or no-cost to qualified employees.

5.4.2.4 The program will be composed of health education and fitness-related activities that meet the needs and interest of the employees, as well as activities and programming that supports the current AWC WellCity standards. Such activities may be on- or off-site and may be partially or fully funded by the City.

5.4.2.5 The wellness budget will include a minimum of \$10 per employee per year.

5.4.3 Wellness Coordinator, Wellness Committee, & Wellness Committee Meetings.

5.4.3.1 The City Manager will designate a department or division to assign a Wellness Coordinator and oversee the Employee Wellness Program and assign the task of coordinating the program to an employee.

5.4.3.2 Membership and terms of service, and other relevant information and procedures will be determined in the Wellness Committee Charter, as approved by the City Manager.

5.4.3.3 Committee members are permitted to attend meetings and facilitate the program as needed; provided that these meetings do not disrupt City operational and staffing needs.

5.4.3.4 The Wellness Committee will develop programs around AWC award requirements including awareness, motivational, behavioral change, and cultural support.

#### 5.4.4 Staff Participation.

5.4.4.1 City employees will be provided time to participate in wellness activities during regular work hours for activities organized by the Wellness Committee which may include: health screenings, health education seminars, or group wellness activities approved case-by-case by the City Manager.

5.4.4.2 City employees are encouraged to provide program ideas to the Wellness Committee.

5.4.4.3 City employees are encouraged to attend Wellness Committee meetings.

5.4.4.4 Additional wellness activities will also be available for employees to participate in on their own time.

### 5.5 Length of Service and Performance Awards

5.5.1 All regular employees are eligible for a length of service award. Seasonal and other temporary employees are not included in this program. The value of each length of service award can be given in various forms, such as gift baskets and gift cards. In addition, the City may fund an annual service recognition event for all City employees that includes but is not limited to food, entertainment, and decorations.

#### 5.5.2 Schedule and Amounts for One-Time Length of Service Awards:

- After two years of service, \$35 or less per employee.
- After five years of service, \$75 or less per employee.
- After ten years of service, \$100 or less per employee.
- After fifteen years of service, \$150 or less per employee.
- After twenty years of service, \$250 or less per employee.

- After the completion of each additional five years of service beyond twenty, \$250 or less per employee.

Length of Service Award payments are subject to applicable payroll taxes and withholdings.

- 5.5.3 Performance Awards. In addition to length of service recognition, the City Manager is authorized to honor noteworthy performance and/or work ethic with outstanding service awards. Such awards are non-monetary and may be given in the form of a wall plaque, certificate, or similar token.
- 5.5.4 Service Recognition Upon Separation. Employees with at least five years of service with the City who voluntarily leave employment with the City or are laid off may receive a plaque for their service, provided they are leaving the City in good standing. Employees who retire from the City via a PERS or 401(a) defined contribution plan may receive a plaque or other token of appreciation for their service, and the plaque or token received may be based on their years of service. The City may host a celebratory retirement event in a City-owned building or park. The City may provide light refreshments, nominal decorations, and other nominal and incidental items associated with the retirement event. The City may also send out electronic invitations for the retirement event. The City may choose to host the retirement event virtually and use one of its online video platforms to do so. Retirement events may typically be held outside of normal work hours, but may also be included as part of, or immediately before or after, all-staff meetings or at other times designated by the City Manager.

## **5.6 Other Benefits**

- 5.6.1 Employee Meetings. In recognition of its employees and the services they provide for the community and for the purposes of promoting organizational health and conviviality in the organization, the City Manager and department heads may occasionally organize special employee meetings and gatherings that are in addition to routine operational meetings (e.g., weekly or monthly team meetings). City funds may be used for food, nominal decorations, and other incidental items for these occasional gatherings.
- 5.6.2 Business Meetings. Some employees, by the nature and custom of their jobs, participate in city-business-related lunch meetings with representatives of other agencies or community members. As a general guideline, employees should typically not allow people and organizations they potentially regulate or firms

and consultants they conduct city business with to purchase meals for them. When the lunch hour is on occasion (because of busy schedules and timelines) consumed by a meeting to discuss City business or travel to or from a business meeting, employees may, subject to department head approval, charge the City (or be reimbursed by the City) for meals for City business purposes. In addition, the City may host a business meeting of other agency representatives. If this meeting is during a meal hour, the City may pay for the meals of the attendees (and employees may allow other public agencies to reciprocate when these other agencies host). Further, if City meetings (such as City Council meetings) go into the dinner hour (typically 6 p.m.), the City may pay for dinner for those employees in attendance.

- 5.6.3 On-Site Coffee and Other Beverages. As a support to employee productivity and satisfaction, City expenditures may be used to provide coffee and other beverages for use on work premises by City employees during the workday and evening hours. Employees may not take these items to use at home or other non-work location. Additionally, City employees, at City expense, may provide coffee, other beverages, and snacks to guests at City work premises for City-related business meetings.
- 5.6.4 Business Meeting Meal & Travel Allowance. For the executive-level position whose responsibilities require more frequent lunch meetings and travel around the Puget Sound and whose job responsibilities include being the lead on economic development, the City Manager may allow a monthly allowance up to four hundred dollars (\$400) for business meetings and related meals and travel. In these cases, tracking mileage and odometer readings and tracking and submitting meal receipts can be time consuming and inefficient, and therefore an allowance provides greater efficiency and outcomes. The recipient of this monthly allowance may not submit reimbursement requests for mileage and meal expenses greater than \$400 per month. However, they may submit expense mileage reimbursement requests for travel outside of a 50-mile radius of Kenmore City Hall. Travel-related costs to conferences more than 50 miles from Kenmore are not considered part of and therefore are in addition to this monthly allowance. The City Manager is not eligible for this allowance unless specifically and separately approved by the City Council for the City Manager.
- 5.6.5 Birthdays and Other Personal Milestones. City employees may use City premises to recognize and celebrate birthdays and other noteworthy personal milestones (e.g., baby shower) of their coworkers. If during the workday, these

gatherings will be brief. The City Manager may designate a certain time (or times) during each month when these gatherings may take place (e.g., immediately before or after all-staff meetings). Preparation and cleanup will be nominal. The City will not pay for food, gifts, or decorations associated with these gatherings.

## **6 LEAVES OF ABSENCE AND TIME OFF**

### **6.1 Leaves**

6.1.1 The City has the following different types of leave:

- 1) Vacation Leave
- 2) Sick Leave
- 3) Vacation and Sick Donation (Shared Leave)
- 4) Family and Medical Leave
- 5) Paid Family and Medical Leave
- 6) Pregnancy Disability Leave
- 7) Leave without Pay
- 8) Jury Leave
- 9) Administrative Leave
- 10) Military Leave
- 11) Executive Leave
- 12) Bereavement Leave
- 13) Holidays
- 14) Religious Holidays
- 15) Parental Leave
- 16) Leave for Domestic Violence Victims and Their Family Members
- 17) Wellness Day Off

### **6.2 Vacation**

6.2.1 The City encourages employees to annually take sufficient vacation time to maintain a healthy work-life balance. Each regular full-time employee is entitled to vacation leave as follows, based on the employee's anniversary date:

| <u>Vacation Accrual</u><br><u>Schedule</u>     | <u>Vacation Days per</u><br><u>Month</u> | <u>Vacation Days per Year</u> |
|--|--|-------------------------------|
| Start of the first year<br>through year five   | 0.83                                     | 10                            |
| Start of the sixth year<br>through year eight  | 1.25                                     | 15                            |
| Start of the ninth year<br>through year twelve | 1.67                                     | 20                            |
| Start of the thirteenth<br>year and beyond     | 2.08                                     | 25                            |



As an example, a regular employee who has been continuously employed by the City for four years (i.e., *completed* four years) is in their fifth year of employment and is entitled to accrue 0.83 vacation days per month. As another example, a regular employee who has *completed* five years of continuous employment with the City is in their sixth year and is entitled to accrue 1.25 vacation days per month.

To provide a more specific example with actual dates, let's assume a regular full-time employee began employment with the City on February 1, 2020. Starting on their first day of employment, their vacation accrual rate would be 0.83 days per month. Their vacation accrual rates would start on the anniversary dates as listed here:

| <u>Anniversary Date</u> | <u>Vacation Accrual Rate (days/month)</u> |
|-------------------------|---|
| February 1, 2021        | 0.83                                      |
| February 1, 2022        | 0.83                                      |
| February 1, 2023        | 0.83                                      |
| February 1, 2024        | 0.83                                      |
| February 1, 2025        | 1.25                                      |
| February 1, 2026        | 1.25                                      |
| February 1, 2027        | 1.25                                      |
| February 1, 2028        | 1.67                                      |
| February 1, 2029        | 1.67                                      |
| February 1, 2030        | 1.67                                      |
| February 1, 2031        | 1.67                                      |
| February 1, 2032        | 2.08                                      |
| February 1, 2033        | 2.08                                      |

- 6.2.2 Regular part-time and job-share employees will receive vacation leave on a pro-rata basis. For temporary employees, see Section 3.3.
- 6.2.3 Vacation days will be earned bi-weekly, so that the annual total equals the "vacation days per year" based on the number of years of employment.
- 6.2.4 Prior Service Credit for Vacation Accrual. In determining the vacation accrual rate, experience in another jurisdiction directly related to the new position may be credited as years of employment within Kenmore, in the City Manager's discretion. In such case, the employee will receive the accrual rate based on

their years of service up to five years. In addition, the City Manager may provide accrued vacation time at the time of hire.

- 6.2.5 Each department is responsible for scheduling its employees' vacations without undue disruption of department operations and customer service. Preferably, leave requests should be submitted at least two weeks prior to taking vacation leave. Vacation leave requests may be denied if, in the City's discretion, the leave would adversely impact or interfere with the City's operational or business needs.
- 6.2.6 Employees accrue and may use vacation leave during their work trial period. Employees do not accrue vacation leave during a leave without pay.
- 6.2.7 The maximum number of vacation hours which may be generally carried over from December 31 of one year to January 1 of the next year is 240 hours. In cases where City operations have made it impractical for an employee to use vacation time, or where the employee has made suitable arrangements with the department director approved by the City Manager, additional accruals may be authorized, at the City Manager's sole discretion. Employees will be paid for unused vacation time upon termination of employment, up to a maximum of 320 hours.

### **6.3 Sick Leave**

- 6.3.1 The City offers sick leave benefits consistent with the Washington Paid Sick Leave Laws, RCW 49.46.210 and Chapter 296-128 WAC (WPSL), and for most regular employees, additional sick leave benefits not required by law (ASL), as follows.
  - 6.3.1.1 Regular full-time employees shall accrue sick leave at the rate of eight (8) hours for each calendar month of completed employment.
  - 6.3.1.2 Regular part-time employees shall accrue sick leave at a prorated rate, based on the number of hours actually worked by them in relation to a full-time schedule (but not to exceed the accrual rate of eight sick leave hours per month).
  - 6.3.1.3 Job-share employees shall accrue sick leave benefits as prescribed in Policy 3.4.5.

- 6.3.1.4 Temporary employees and regular employees who do not otherwise qualify for City benefits and who are hired after the effective date of this Sick Leave Policy, shall accrue only WPSL benefits, at an accrual rate of one (1) hour for every 40 hours worked by them. Temporary and regular employees who do not otherwise qualify for City benefits and who were hired prior to the enactment of this Sick Leave Policy shall continue to accrue sick leave benefits at their existing accrual rates; provided, that once such employees' current employment with the City ends, they shall be subject to this section if they are subsequently rehired by the City.
- 6.3.1.5 In no event will any employee earn more than eight (8) hours of sick leave in any calendar month, unless otherwise required by law.
- 6.3.1.6 In any event employees shall accrue at least one (1) hour of sick leave for every 40 hours worked by them.
- 6.3.2 Sick leave benefits shall begin accruing as of the employee's hire date. New employees may use earned sick leave during their trial period.
- 6.3.3 Employees may take their sick leave in 15-minute increments.
- 6.3.4 Sick leave benefits shall be prorated for any partial months at the commencement or termination of the employee's employment.
- 6.3.5 Sick leave benefits shall accrue only when an employee is in paid status (which includes paid leave but does not include unpaid leave or worker's compensation).
- 6.3.6 Employees may carry over their accrued sick leave from one calendar year to the next.
- 6.3.7 Sick leave benefits shall be paid at the employee's regular base rate of pay.
- 6.3.8 Employees may use their accrued sick leave benefits for any absence due to the following reasons:

- The employee's own illness, injury, or health condition; to accommodate the need for medical diagnosis, care, or treatment of a health condition; or preventative medical care.
- The employee's care for a family member with an illness, injury, or health condition; to care for a family member who needs medical diagnosis, care, or treatment; or to care for a family member who needs preventative medical care.
- The City is closed by order of public official for any health-related reason, or the employee's child's school or daycare is closed for such a reason.
- Absences covered by the City's Domestic Violence Leave Policy.
- Other circumstances which may be authorized by the City Manager or designee, in the City Manager's or designee's discretion.

6.3.9 For purposes of this Sick Leave policy, "family member" means the employee's:

- child (biological, adoptive, foster, stepchild or child for whom the employee stands in loco parentis, is a legal guardian for, or is a de facto parent);
- parent (including the same relationships as set forth for "child" above);
- spouse or registered domestic partner;
- spouse's or domestic partner's parent;
- grandparent;
- grandchild or sibling.

"Domestic partner" shall have the same meaning as set forth in RCW 26.60.020.

6.3.10 Employees should request to use their sick leave benefits as far in advance as possible. This generally means that an employee should provide notice at least ten (10) days in advance of any planned or otherwise foreseeable absence (such as a planned medical appointment or procedure) and at least one (1) hour prior to the employee's shift for any unforeseeable or emergent absence (unless such notice is not practicable under the circumstances, in which case the employee should provide notice as soon as practicable).

6.3.11 The City may require an employee to provide proof of illness, injury, or health condition from a qualified health care provider or other health care source as determined by the City Manager (or designee).

6.3.12 For the first 92 hours of sick leave used in any calendar year, such medical certification shall be limited to absences of more than three (3) consecutive days. If an employee believes that such required verification will result in an unreasonable burden or expense, the employee should notify the City, preferably in writing, of this and provide an explanation that (i) the employee's use of the sick leave is for one of the reasons listed above and (ii) how the verification requirement will result in an undue burden or expense. Upon receipt of such notice from the employee, the City will consider the employee's explanation and proceed in accordance with the process set forth in WAC 296-128-660. Otherwise, failure to provide the required verification may result in a loss of leave benefits for that work period and/or may result in further disciplinary action.

6.3.13 If an employee feels that they are being discriminated or retaliated against because of their lawful use of the first 92 hours of their sick leave benefits in a calendar year, the employee should contact Human Resources. If the employee is not satisfied with the City's response, the employee may contact the Washington State Department of Labor & Industries:

Online: [www.lni.wa.gov/WorkplaceRights](http://www.lni.wa.gov/WorkplaceRights)

Call: 1-866-219-7321

Visit: [www.lni.wa.gov/Offices](http://www.lni.wa.gov/Offices)

Email: [ESgeneral@lni.wa.gov](mailto:ESgeneral@lni.wa.gov)

6.3.14 After an employee's use of 92 hours of sick leave in any calendar year, the City may require medical certification in connection with any additional sick leave usage, and this medical verification requirement is not subject to the process outlined in Section 6.3.9.1 above. Failure to provide such required verification may result in loss of sick benefits for that work period and may result in further disciplinary action. Employees who misuse their sick benefits will be subject to disciplinary action, up to and including termination.

6.3.15 Upon termination of a regular employee's employment due to death or PERS- or 401(a) plan-eligible retirement, the employee's accrued but unused sick leave benefits shall be cashed out to the employee in an amount equal to fifty percent (50%) of such employee's accrued but unused benefits, up to a maximum of 720 paid hours. Upon termination of a regular employee's employment due to layoff or resignation in good status (see Policy 9.5.1), the employee's accrued but unused sick leave benefits shall be cashed out to the

employee in an amount equal to twenty percent (20%) of the employee's accrued but unused sick leave benefits, up to a maximum of 720 paid hours. Sick leave benefits shall not be cashed out to an employee in cases of an involuntary termination. Temporary or seasonal employees shall not be eligible to receive a cash-out of their sick benefits.

- 6.3.16 If an employee is rehired by the City within twelve (12) months of the employee's termination date, up to forty (40) hours of sick leave benefits previously accrued to the employee and not otherwise cashed out by the City shall be reinstated to the employee's sick leave bank upon rehire.

#### **6.4 Vacation and Sick Leave Donation (Shared Leave)**

- 6.4.1 Intent. The purpose of shared leave is to permit City employees to come to the aid of a fellow City employee who is on FMLA leave or is suffering from or has an immediate family member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or to terminate his or her employment.

- 6.4.2 A department director, with the City Manager's approval, may permit an employee to receive shared leave if:

- The employee suffers, or has an immediate family member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature, and which has caused, or is likely to cause, the employee to go on leave without pay status or to terminate his or her employment with the City.
- The employee has depleted or will shortly deplete all but forty (40) hours of their total of accrued vacation, sick leave, compensatory time, floating holiday time, and/or other paid leave. An employee may receive donated leave and still retain up to forty (40) hours of accrued leave.
- Prior to the use of shared leave, the employee has complied with the City's sick leave policy.
- The employee is not eligible for state industrial insurance benefits.

- 6.4.3 For purposes of this Shared Leave Policy, an employee's "immediate family member" shall include the employee's: child (biological, adoptive, foster, stepchild or child for whom the employee stands in loco parentis, is a legal guardian for, or is a de facto parent); parent (including the same relationships

as set forth for “child” above); spouse or registered domestic partner; sibling; or grandparent. “Immediate family member” may also include cases in which an employee is able to demonstrate, to the satisfaction of the City Manager or designee, that the employee is the sole relative and caregiver for a family member who does not otherwise meet the definition herein. “Registered domestic partner” shall have the same meaning as set forth in RCW 26.60.020.

- 6.4.4 The department director, with the concurrence of the City Manager, shall determine the amount of shared leave, if any, which an employee may receive under this policy. The employee may be required to provide appropriate medical justification and documentation both of the necessity for the leave and the time which the employee can reasonably be expected to be absent due to the condition. To the extent possible, shared leave should be used on a consecutive basis.
- 6.4.5 Employees may request their department director to approve the transfer of a specified amount of accrued vacation or sick leave to an employee who is authorized to receive shared leave as provided herein. In order to be eligible to donate vacation or sick leave, an employee must have a total of more than 10 days of accrued vacation or sick leave. Transfers shall be in increments of one day of leave. In no event shall a transfer of leave be approved which would result in an employee reducing his or her total vacation or sick leave in a calendar year to less than 10 days. The department director shall not transfer vacation leave in excess of the amount specified in the request. All donations of leave shall be voluntary.
- 6.4.6 Leave may be transferred from employee(s) from one department to an employee of the same department, or, with the concurrence of both department directors, to an employee of another department.
- 6.4.7 Subject to benefit plan rules, while an employee is on shared leave, they will continue to be classified as a City employee and shall receive the same treatment, in respect to salary and benefits, as the employee would otherwise receive if using vacation leave. Donated hours and pay associated with those hours are not reportable under Washington State Department of Retirement Systems Public Employee Retirement System rules; employees should contact DRS directly to ensure that any shared leave used by them is not incorrectly reported/recorded.

- 6.4.8 All salary and benefit payments made to the employee on a shared leave shall be made by the department employing the person using the shared leave.
- 6.4.9 The employee's salary rate shall not change as a result of being on shared leave nor, under any circumstances, shall the total of the employee's salary and other benefits, including but not limited to state industrial insurance or any other benefit received as a result of payments by the City to an insurer, health care provider, or pension system, exceed the total of salary and benefits which the employee would have received had he or she been in a regular pay status.
- 6.4.10 Donated sick leave shall be transferred on an hour-for-hour basis. Donated vacation leave shall be transferred on a dollar-for-dollar basis and shall be converted into sick leave for the receiving employee. The value of the donated vacation leave shall be determined at the current hourly wage of the transferor and the value of the donated sick leave shall be calculated at the recipient's wage.
- 6.4.11 Payroll shall be responsible for computing the values of donated leave and shared leave and shall also be responsible for adjusting the accrued leave balances to show the transferred leave. The Finance and Administration Director shall determine the appropriate fund transfers and budget amendments if needed. Records of all leave time transferred shall be maintained in the event any unused time is returned at a later date.
- 6.4.12 The value of any leave transferred which remains unused shall be returned at its original value to the employee or employees who donated the leave. The department director shall determine when shared leave is no longer needed. To the extent administratively feasible, the unused leave shall be returned on a pro rata basis.

## **6.5 Family and Medical Leave**

- 6.5.1 Eligible employees are granted up to 12 weeks of protected leave without pay in a 12-month rolling calendar period for qualifying family and medical reasons. To be eligible for such leave, an employee must have worked for the City for at least 12 months and at least 1,250 hours in the preceding 12 months. Employees who expect to take more than three consecutive days of sick or regular leave or more than two intermittent leaves for any of the reasons defined below, need to contact Human Resources to determine if FMLA



applies, and if a Certification of Healthcare Provider form needs to be completed.

- 6.5.2 If an employee requests or makes known to their supervisor that they may make or are making an FMLA-related leave request, the supervisor must inform Human Resources and have the employee contact Human Resources to determine if FMLA applies. The Human Resources Manager will review and determine if the request falls under FMLA with its rights and requirements and will notify the employee of Human Resources' determination in this regard.
- 6.5.3 Family & Medical Leave ("FML") will be granted for any of the following reasons:
  - 6.5.3.1 To care for and bond with the employee's child after birth or placement for adoption or foster care; (if both parents are employed by the City, combined FML shall not exceed 12 weeks);
  - 6.5.3.2 To care for the employee's child (if such child is under the age of 18 or incapable of self-care), spouse, registered domestic partner, or parent who has a serious health condition;
  - 6.5.3.3 For a serious health condition that renders the employee unable to perform the essential duties of the employee's job;
  - 6.5.3.4 A "qualifying exigency," as defined by the applicable regulations adopted by the Department of Labor from time to time, arising out of a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan. For purpose of this policy, a "covered family member" means the spouse, child, or parent of an eligible employee; or
  - 6.5.3.5 To care for a covered family member who qualifies as a "covered service member." For purposes of this policy, the term "covered servicemember" means a member of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, or who is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for an injury or illness incurred by the covered servicemember in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of

the member's office, grade, rank, or rating. Eligible employees may take up to 26 weeks of leave during a single 12-month period to care for a covered family member who is a covered service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period. Servicemember FMLA leave runs concurrent with other leave entitlements provided under federal and state law.

- 6.5.4 An employee is required to notify the City if the employee uses paid leave for a reason covered by the FMLA, so that the leave will be counted against the employee's FML allowance. If the City has reason to believe that an employee's absence is due to FMLA-qualifying reasons, the City may initiate the FMLA process for the employee. FML will be monitored and tracked on a rolling calendar year basis, which is measured from the first day of an employee's use of FML. Employees are responsible for notifying Human Resources of any changes in status, especially when a qualifying event or condition no longer exists.
- 6.5.5 Employees must provide the City with at least 30 days written notice when the employee's FML is foreseeable. If leave is not foreseeable, an employee must provide notice as soon as practicable. Otherwise, leave may be delayed until 30 days after notice is given. An FMLA Leave Request form is available from Human Resources. When leave is taken for a serious health condition (either the employee's own or the employee's family member) that is expected to extend beyond five consecutive working days, the request must be supported by a medical certification (FMLA Certification of Healthcare Provider Form for Self or Family Member). The City may require a second or third opinion at the City's option and expense. The Certification of Healthcare Provider form is available from Human Resources.
- 6.5.6 Accrued paid leave (sick leave and vacation leave) must be used to the extent available during FML, to the extent consistent with applicable law. Paid leave may not be used as an extension of a FML. Sick leave and vacation leave will not accrue during periods of unpaid leave. FML leave runs concurrently with PFML and the City's voluntary Parental Leave.
- 6.5.7 Intermittent or reduced schedule leave may be taken when medically necessary for either the employee's own serious health condition or for that of a qualifying family member.

- 6.5.8 If an employee's leave extends past two weeks, the City requires the employee to report at least every two weeks on their status and intent to return to work, unless the employee's medical certification is for a longer duration, in which case the employee should advise the City of any changes to their estimated return to work, as certified. During FML leave, the City will continue to provide health insurance on the same basis as during regular employment. If an employee takes unpaid leave, the employee must pay the premiums for other insurance plans such as disability and life insurance and other supplemental benefits the employee may have elected to enroll in.
- 6.5.9 The City retains the option of requiring an employee to provide a medical certification of their fitness for duty to Return to Work (RTW) after a medical leave for the employee's own serious health condition. In most cases, an employee will be reinstated to their same job position or substantially equivalent job position upon the completion of FML; however, reinstatement may not occur if the employee's position was eliminated by a bona fide restructuring or reduction in force, the employee fails to return to work immediately following the conclusion of the FML, or the employee qualifies as a "key employee," as defined by the FMLA.

## **6.6 Paid Family and Medical Leave**

- 6.6.1 PFMLA Program. The Washington State Employment Security Department (ESD) administers an insurance program under the Paid Family Medical Leave Act (PFMLA), pursuant to which eligible employees will qualify for partial wage replacement and leave benefits for covered family and medical reasons. This policy provides a summary of the PFML program, but employees may obtain additional information at [www.paidleave.wa.gov](http://www.paidleave.wa.gov). To the extent an issue is not addressed in this policy, the City will administer this benefit program consistent with applicable statutes and regulations.
- 6.6.2 Employee / City Premiums.
- 6.6.2.1 In administering the PFMLA program, the Washington State Employment Security Department (ESD) assesses a premium rate for each City employee, which rate is established by law. The employee is responsible for 73% of the total premium rate (the "Employee's Share"). The City deducts the Employee's Share from the employee's

paycheck (up to the Social Security cap, as defined by law), in accordance with its standard payroll practices.

6.6.2.2 The remaining 27% of the PFMLA premium rate is paid by the City (the “City’s Share”).

6.6.2.3 The City reports and remits the applicable PFMLA premiums to the ESD. Should the State in the future modify the PFML premium rate or the percentage of premiums subject to collection through payroll deduction, the City will modify payroll practices to reflect those statutory changes.

### 6.6.3 Eligibility.

6.6.3.1 To be eligible for monetary leave benefits under the PFMLA, an employee must have worked 820 hours in Washington State (for any employer or combination of employers) in the year leading up to the date of leave. To be eligible for job protection under the PFMLA, an employee must (i) have been employed by the City for at least 12 months and (ii) have been in paid status for at least 1,250 hours in the 12 months preceding the start of PFML.

6.6.3.2 An employee is ineligible for PFML benefits during any period of suspension from employment or during which the employee works for remuneration or profit (e.g., outside employment or contracting).

6.6.3.3 Paid Family and Medical Leave (PFML) benefits, as applicable, may be granted for any of the following reasons:

- Medical Leave.
  - The employee’s own serious health condition, as defined under the federal Family & Medical Leave Act (FMLA) and RCW 50A.05.101, which causes the employee to be unable to work; provided, that an employee is ineligible for PFML if also receiving workers’ compensation time loss benefits due to a workplace injury.
- Family Leave.
  - To care for the employee’s family member with a serious health condition.
  - To care for the employee’s child after birth or placement (by adoption or foster care) within 12 months of such birth/placement (in cases of adoption or foster care, the child must be under the age of 18 years).
  - For a family member’s qualifying military exigency as defined under FMLA.

For purposes of this policy, “family member” means the employee’s: child (biological, adoptive, foster, step-child, or child for whom the employee stands in loco parentis, is a legal guardian for, or is a de facto parent); parent (including the same relationships as set forth for “child” above); spouse or registered domestic partner; spouse’s or domestic partner’s parent; grandparent; or sibling. “Registered domestic partner” shall have the same meaning as set forth in RCW 26.60.020.

FML runs concurrently with PFML where an absence is covered by both laws.

6.6.4 Application for Benefits. Applications for PFML benefits are made directly to the ESD. Employees should contact the ESD to commence the application process. The ESD will require the employee to complete its certification form, relating to the employee’s eligibility and qualification for PMFL benefits.

6.6.5 Notice.

6.6.5.1 Employee Notice.

6.6.5.1.1 When the need for PFML is foreseeable (such as for planned medical procedures or the birth of a child), an employee must notify the City of the need for such leave at least 30 days in advance of such leave. If the need for PFML is not foreseeable, the employee must provide notice as soon as practicable.

6.6.5.1.2 The employee’s notice must be in writing, must identify the family or medical nature of the leave, and must contain the anticipated timing and duration of such leave. If an employee fails to provide this required notice, the ESD may deny benefits for the period of time during which the notice was insufficient.

6.6.5.1.3 Employees apply directly to the ESD for PFML monetary benefits. An employee must, within five (5) business days of employee’s receipt of the same, notify the City of the

ESD's determination with respect to such application for benefits, including the amount of any awarded monetary benefits. This is to assist the City's recordkeeping and administrative functions as well as any related paid leave calculations.

6.6.5.1.4 If leave is being taken for the employee's or employee's family member's planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt City operations.

6.6.5.1.5 If taking leave intermittently, an employee must notify the City each time PFML leave is taken so the City may properly track leave use.

#### 6.6.5.2 Employer Notice.

6.6.5.2.1 A workplace poster prepared by the ESD, outlining an employee's rights under the PFMLA, has been posted in the break rooms at City Hall and the Public Works facility office.

6.6.5.2.2 Additionally, when an employee is absent for more than seven (7) consecutive days for a reason known to be covered under the PFMLA, the City will provide the employee with a notice of rights, on such form prepared by the ESD. Such notice shall be provided the later of: (i) five (5) business days after the seventh day of absence; or (ii) five (5) business days after the City receives notice that the employee is absent for a covered reason.

#### 6.6.6 Length of Leave.

6.6.6.1 Employees who qualify for PFML may take up to 12 weeks of family or medical leave per claim year, or a total of 16 weeks of combined family and medical leave. Additionally, female employees whose medical leave involves incapacity due to pregnancy are entitled to two (2) additional weeks of medical leave, for a combined total of 18 weeks of PFML.

- 6.6.6.2 PMFL may be taken intermittently, subject to the minimum claim requirement of eight (8) consecutive hours.
- 6.6.6.3 PMFL is tracked during the claim year, which is the 52-week period commencing on the Sunday of the week in which the employee meets the minimum claim requirement or in which the employee first takes leave due to the birth or placement of the employee's child (as applicable).
- 6.6.7 **Waiting Period.** Monetary PFML benefits, with the exception of leave taken for the birth or placement of a child, are subject to a seven-day waiting period. This means that for the first seven (7) consecutive days of a PFML claim, the employee may take PFML but shall not receive any PFML monetary benefits. The waiting period for PFML monetary benefits commences on the Sunday of the week in which an employee claims a minimum of 8 consecutive hours of PFML. While no monetary PMFL benefits are paid during the waiting period, the waiting period is credited against the duration of the employee's PFML.
- 6.6.8 **Leave Benefits.**
  - 6.6.8.1 While on PMFL, employees are entitled to monetary benefits through the state program. PFML monetary benefits are calculated based upon a percentage of the employee's average weekly wage. The benefit is generally up to 90% of an employee's average weekly wage, with minimum and maximum weekly benefits established by law. Employees may refer to the ESD's website at [www.esd.wa.gov](http://www.esd.wa.gov) for a benefits calculator, which may provide an approximate estimate of benefits. The ESD is responsible for calculating and paying the PFML monetary benefits.
  - 6.6.8.2 City paid time off, including but not limited to sick leave, vacation leave, parental leave, shared leave, etc., is non-supplemental to PFML. This means that if an employee uses City paid leave in connection with PFML, the employee must report such leave use to the ESD, and such use will reduce the Employee's PMFL monetary benefits.

6.6.8.3 When an employee is on PFML and is not using City paid time off, the employee is considered to be in an “unpaid” status with the City. Insurance coverage will be handled in the same manner as other unpaid leaves of absence, pursuant to City policy and subject to any FMLA requirements requiring continuation of coverage.

6.6.9 Reinstatement/Return to Work Recertification. An employee who is eligible for job-protected leave will be restored to the same or equivalent position at the conclusion of PFML, unless unusual circumstances have arisen (e.g., the employee’s position or shift was eliminated for reasons unrelated to the leave). The City may require a return-to-work certification from a health care provider before restoring the employee to work following PFML where the employee has taken leave for the employee’s serious health condition and has taken more than three (3) days of consecutive leave. Under certain conditions, the City may deny job restoration to a salaried employee who is among the highest paid ten percent (10%) of City employees. If an employee taking PFML chooses not to return to work for any reason, the employee should notify the City as soon as possible.

6.6.10 Questions. Questions regarding this PFMLA policy should be directed to Human Resources.

## **6.7 Pregnancy Disability Leave**

Employees are entitled to use sick leave or vacation leave, or to take an unpaid pregnancy disability leave of absence for the period of their actual disability due to pregnancy, childbirth or related medical conditions. The employee must provide the City with appropriate documentation from a health care professional establishing the period/length of actual disability. Employees seeking leave under this policy should provide written notice of the intended leave dates at least 30 days in advance of the leave or as soon as possible in the case of an emergency.

## **6.8 Leave without Pay**

6.8.1 The City Manager may grant leaves of absence without pay for absence from work not covered by any other type of leave or if other leave balances are exhausted. Examples of situations for which leave without pay may be granted include time off work for personal reasons, such as prolonged illness, parenting, caring for an ill relative, pursuing an education, or fulfilling a military obligation in excess of fifteen (15) calendar days per year. Another example is



a new employee who has planned time off but doesn't have enough accrued leave to cover the time off.

6.8.2 The following requirements for leave without pay apply:

- Leave may be granted to an employee for a period of up to ninety (90) calendar days upon the approval of the City Manager. Further extensions are at the discretion of the City Manager if such leave does not interfere with the orderly and efficient provision of services to the residents of the City.
- Accrued compensatory time, if any, and vacation leave must be exhausted prior to taking any leave without pay.
- An employee's benefits are suspended or prorated (depending on the length of leave without pay) during the period of unpaid leave until the employee returns to work. An employee on leave without pay for more than five working days in a calendar month will be required to pay a prorated amount of their health insurance premiums for that month. Vacation, sick leave, and/or any other benefits do not accrue while an employee is on leave without pay (subject to benefit plan documents).
- In certain circumstances, self-payment of benefits may apply. (See Section 5.3.3 on Insurance Benefits)

6.8.3 An employee who fails to report promptly at the end of the unpaid leave is presumed to have resigned. An employee returning from a temporary disability may, at the City's option, return to the same position or similar position at a comparable rate of pay.

6.8.4 If the leave without pay is due to an illness, the City may require a doctor's certificate stating that the employee is capable of returning to work and performing the work, duties and responsibilities of the employee's position.

## 6.9 Jury Leave

Regular employees may be granted time off with pay for up to three weeks to serve on a jury. After the three-week period with pay, the employee will be required to use accrued vacation leave, comp time, or leave without pay for extended jury duty. If an employee is summoned during a critical work period, the City may ask the employee to request a waiver from duty. An employee receiving jury duty leave shall be required to remit to the City the stipend/pay

received by the employee from the court for such service during any period for which jury duty leave is paid by the City.

### **6.10 Administrative Leave**

On a case-by-case basis, the City may place an employee on administrative leave, with or without pay, for an indefinite period of time, as determined by the City Manager to be in the best interests of the City during the pendency of an investigation or other administrative proceeding.

### **6.11 Military Leave**

Employees who are members of the National Guard or federal reserve military units may be absent from their duties, with pay, for a period of up to twenty-one (21) calendar days per year (measured from October 1 to the following September 30) when they are performing ordered military duty and while going to and from that duty.

### **6.12 Executive Leave**

6.12.1 In recognition of exemplary service and the many hours worked by exempt employees beyond the standard workweek, the City desires to grant up to 10 days (80 hours) of executive leave each calendar year. Executive leave will be prorated for exempt part time employees and for eligible new employees with accruals beginning the first day of the month following date of hire. The City Manager and department directors will be granted eighty (80) hours of executive leave per year at the beginning of the calendar year. Other exempt employees will be granted forty (40) hours of executive leave per year at the beginning of the calendar year. The City Manager may identify exempt positions which, in the City Manager's discretion, warrant the award of additional executive leave because of the nature of the work, such as frequent night meetings, weekend work, or other ongoing unusual circumstances that cause the position to work significant hours above and beyond forty per work week (excluding normal callback duties). In such cases, the City Manager may prospectively award up to forty (40) additional hours of executive leave per year (not to exceed a total of eighty (80) hours).

6.12.2 Executive Leave is granted in recognition of exemplary and extraordinary service and is intended to provide for occasional paid days off for recuperation without reducing an employee's accrued vacation. It must be taken in increments of no less than four (4) consecutive hours.

- 6.12.3 Similar to vacation leave, the employee should submit a leave request to their supervisor and receive approval, prior to taking executive leave. Requests may be denied due to City or department operational needs.
- 6.12.4 Executive Leave may not be used to substitute for sick leave unless all sick leave has been exhausted.
- 6.12.5 Executive Leave will not carry forward from one calendar year to the next and will not be cashed out to the employee upon termination of employment or any other circumstance. The full annual amount of executive leave will be granted at the beginning of each calendar year (or a prorated amount granted to new employees that start after the first of the year).
- 6.12.6 Employees are not entitled to use Executive Leave or receive payment in lieu thereof upon separation from service.

### **6.13 Bereavement Leave**

Bereavement leave with pay may be taken for the death of an immediate family member, not to exceed three (3) days. For purposes of this Bereavement Leave Policy, "immediate family" shall mean spouse, registered domestic partner, child (biological, adoptive, foster, step-child or child for whom the employee stands in loco parentis, is a legal guardian for, or is a de facto parent), parent (including the same relationships as set forth for "child" above), sibling, aunt, uncle, niece, nephew, grandparent and grandchildren (including all step or in-law relations for the above). No more than six (6) days of bereavement leave may be taken in a calendar year.

### **6.14 Holidays**

- 6.14.1 Employees will receive paid time off, at their regular rate of pay, for the following days, recognized as holidays by the City:

|                               |                        |
|-------------------------------|------------------------|
| New Year's Day                | January 1              |
| Martin Luther King's Birthday | 3rd Monday in January  |
| President's Day               | 3rd Monday in February |
| Memorial Day                  | Last Monday in May     |
| Juneteenth                    | June 19                |
| Independence Day              | July 4                 |

|                              |  |
|------------------------------|--|
| Labor Day                    | 1st Monday in September                  |
| Veteran's Day                | November 11                              |
| Thanksgiving Day             | 4th Thursday in November                 |
| Native American Heritage Day | Friday after Thanksgiving                |
| Christmas Day                | December 25                              |
| Floating Holiday             | (must be taken within the calendar year) |

- 6.14.2 Any holiday falling on Saturday will be observed on the preceding Friday. Any holiday falling on Sunday will be observed on the following Monday. The City Manager may, at their discretion, close City Hall up to two hours early and allow employees to finish their shifts up to two hours early on the last working day prior to the following holiday time off: Thanksgiving, Christmas, and New Year's Day. Employees working on those days may claim eight hours worked on their timecards. Those that work a full eight hours are not entitled to flex time or additional compensation. Those that have the day off will be required to use eight (8) hours of leave.
- 6.14.3 In order to be paid for a holiday time off, the employee must be in paid status the working day immediately before the holiday and the working day immediately after the holiday. For example, if an employee is on leave without pay the day before or the day after a holiday, they will not be paid for time off for the holiday. As another example, a new employee's first day of employment cannot be a paid holiday.
- 6.14.4 Except as otherwise provided herein, regular non-exempt employees who are required to work on the day a holiday is observed by the City (i.e., the day on which the City Hall offices are closed for the holiday), will receive the holiday pay and be paid premium pay equal to two (2.0) times the employee's regular rate of pay for time worked on the observed holiday. Notwithstanding the foregoing, if an employee is normally scheduled to work either Saturday and/or Sunday, and a holiday falls on that weekend day (and is therefore observed by the City on a Friday or Monday), the employee shall receive the actual holiday off in lieu of the observed holiday. In such case, if the employee is required to work the actual holiday, the employee will receive the holiday pay and be paid premium pay equal to two (2.0) times the employee's regular rate of pay for working on the actual holiday but shall not receive additional holiday premium pay for working the day observed by the City as the holiday. (For example, if an employee is scheduled to work on a Christmas Day falling on a Sunday, the employee shall receive Christmas Day as a holiday and shall be paid holiday

premium pay if required to work on Christmas Day. The employee shall not have the observed holiday on the proceeding Monday off nor shall the employee be paid the premium holiday pay for working that Monday). Employees who do not normally work on Saturday or Sunday and are called in to work on a holiday that falls on a Saturday or Sunday will be paid double time for working on that holiday. They will receive the paid holiday off on the preceding Friday or the proceeding Monday.

6.14.5 Temporary employees will be paid at their regular straight-time rate for hours worked on a holiday. For eligibility of Temporary employees for holiday pay, see Section 3.3.

6.14.6 New employees hired prior to July 1<sup>st</sup> will be entitled to a full floating holiday for that year. New employees hired after that date do not receive a floating holiday in the year hired. Regular part-time and job-share employees hired prior to July 1<sup>st</sup> will be entitled to a prorated number of floating holiday hours for that year, based on their normal work schedule in relation to a full-time schedule. Floating holidays must be used in the calendar year in which they are credited; floating holidays do not carry over from calendar year to calendar year and are not cashed out to the employee upon termination of employment for any reason.

## **6.15 Religious Holidays**

6.15.1 Each employee shall be entitled to up to two (2) unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or organization. An employee, in consultation with the employee's department director, may select the days on which the employee desires to take the two unpaid holidays; provided that such holidays are taken in a manner consistent with the purposes of this leave. Employees may use their accrued vacation leave, floating holiday, compensatory time, or leave without pay in connection with these otherwise unpaid holidays. Requests for a religious holiday should be submitted in writing to the employee's department director as far in advance as possible, and in any event not less than four (4) weeks prior to the proposed holiday. Requests for such holidays shall be considered on a case-by-case basis, based on the specific objective facts and circumstances presented at the time of the request. The department director may deny an employee's religious holiday request if, in the department director's discretion, it would unduly disrupt operations or otherwise impose an undue hardship for the City. For purposes of this policy, "undue hardship" shall have the same meaning as established by

rule of the Office of Finance Management, as codified in WAC 82-56-020. The religious holidays provided herein shall not carry over from one year to the next.

## **6.16 Parental Leave**

- 6.16.1 Purpose. The purpose of paid parental leave is to provide new parents with the opportunity to bond with their newborn or newly adopted children, which has a positive, lifelong impact on a child's development. The City encourages employees to take sufficient family time to maintain a healthy productive workforce.
- 6.16.2 Eligibility. Paid parental leave is available to all regular employees who have been employed with the City for at least six months of continuous services at the time of experiencing one of the following qualifying events:
- Birth of an employee's child; or
  - Adoption of a child who is 17 years old or younger. This provision does not apply to the adoption of a stepchild by a stepparent.
- 6.16.3 To the extent that an employee is eligible for and has not otherwise exhausted their leave under the Family and Medical Leave Act, FML shall run concurrently with parental leave under this policy.
- 6.16.4 All eligible employees will receive six weeks of paid parental leave regardless of their leave balances. An employee may then choose to take up to six more additional weeks of leave, either by using their other accrued paid leave reserves, or by taking leave without pay.
- 6.16.5 For the purpose of Parental Leave, employees are not required to exhaust their accrued paid leave before taking leave without pay; provided, that the City may, in its discretion, disallow the use of paid leave to extend parental leave beyond a total of 12 weeks if it determines that such extension will disrupt, interfere with, or compromise City operations. Additionally, an employee may choose to take less than six weeks of paid parental leave.
- 6.16.6 Regular part-time and job-share employees will receive parental leave on a pro-rata basis, based upon the percentage that their normal weekly schedule bears to a full-time, 40-hour work week. For temporary employee eligibility, see Section 3.3.

- 6.16.7 An employee who does not return to work for at least six months of continuous service following the last date that parental leave is used will be required to reimburse the City an amount equal to the paid parental leave benefits received by the employee. By accepting paid parental leave, the employee acknowledges this condition and authorizes the City to deduct from their final paycheck any reimbursement amount owed by the employee pursuant to this policy. To the extent that the employee's final paycheck is insufficient to repay the parental leave benefits in full, the employee shall promptly remit the remaining balance owed to the City. The City Manager shall have the discretion to approve a reasonable installment payment plan for this purpose.
- 6.16.8 Paid parental leave will not be cashed out under any circumstance.
- 6.16.9 Paid parental leave must be used within 12 months of the qualifying event. After 12 months, any remaining unused paid parental leave time will be forfeited and no longer available.
- 6.16.10 An employee may use paid parental leave on an intermittent or part-time basis, as long as it is consistent with the department's operational needs, and it is approved in writing by the employee's department head prior to the leave. The department head shall have final discretion as to whether intermittent or part-time parental leave is consistent with the department's operational needs. In cases where intermittent or part-time parental leave is not approved, the employee must use paid parental leave in one consecutive increment.
- 6.16.11 An eligible employee will receive the full allotment of paid parental leave for each qualifying event. However, the birth or contemporaneous adoption of multiple children (e.g., twins) only qualifies as one event.
- 6.16.12 Paid parental leave is considered protected leave. An employee returning from parental leave shall be entitled to an equivalent position with the same pay benefits and working conditions as the position held by the employee prior to leave, unless the City's circumstances have so changed that the employee's position would have been eliminated even if the employee had not been on parental leave and no other equivalent positions are available (examples of this might include layoffs, budget cuts, department reorganizations, etc.).
- 6.16.13 During paid parental leave, the employee will continue to receive all health benefits and shall continue to accrue vacation and sick leave. If the parental

leave is unpaid, the employee will not continue to accrue paid time off and shall not receive paid health benefits unless otherwise required by law.

6.16.14 Paid parental leave is non-supplemental to Washington Paid Family and Medical Leave Act monetary benefits.

6.16.15 Procedure for Requesting Paid Parental Leave.

- Provide Notice. In all but a small minority of cases, employees will have advance notice of the need for paid parental leave. Except in the rare circumstance when the need for leave is unexpected, at least 30 days' notice must be given to the respective department head. In the rare case when the need for leave is not foreseeable, you must provide notice as soon as possible.
- Discuss your anticipated leave duration and schedule with your immediate supervisor. If you plan to take intermittent or part-time leave, this must be approved by your department head in writing prior to the leave.
- Provide the City with appropriate documentation to certify your eligibility for the paid parental leave benefit.

6.16.16 The Finance and Administration Department will track data related to the use and costs of paid parental leave.

## **6.17 Leave for Domestic Violence Victims and Their Family Members**

6.17.1 Employees who are victims of domestic violence, sexual assault, or stalking may take reasonable unpaid leave from work to take care of legal or law enforcement needs or to get medical treatment, social services assistance, or mental health counseling, or to participate in safety/relocation planning.

6.17.2 Employees who are qualifying family members of a domestic violence victim are also eligible for leave under this policy. For purposes of this policy, the term "qualifying family member" means child, spouse/domestic partner, parent, parent-in-law, domestic partner parent, grandparent, or person the employee is dating.

6.17.3 Employees may elect to use accrued paid personal leave (vacation, sick leave, comp time) for this leave.



6.17.4 Employees wishing to take leave under this policy must give as much advance notice of the need for the leave as possible. Leave requests must be supported with one or more of the following:

- A police report indicating that the employee or the employee's qualifying family member was a victim;
- A court order providing protection to the victim;
- Documentation from a healthcare provider, advocate, clergy, or attorney; or
- The employee's written statement that the employee or employee's qualifying family member is a victim and needs assistance.

6.17.5 Upon return from this leave, employees will be reinstated to their same position or another position with substantially equivalent benefits and terms and conditions of employment.

## **6.18 Wellness Day Off**

6.18.1 Purpose. Employees who are eligible to receive a floating holiday and participate in the City's Annual Wellness Program during a calendar year will have an additional eight (8) hours added to their floating holiday leave balance for the following calendar year. The purpose of the Wellness Day Off is to offer employees an incentive that promotes a health-conscious work culture and incentivizes and recognizes employee participation in the City's Annual Wellness Program. The purpose of the Annual Wellness Program is to encourage healthy lifestyle choices, with the objective of increasing employee health and wellness and reducing the overall need for taking sick days.

6.18.2 Eligibility for Wellness Day Off. Only employees who are eligible to receive a floating holiday are eligible to earn a Wellness Day Off. Eligible employees must demonstrate their participation in the City's Annual Wellness Program throughout the calendar year. Such participation in the program shall be tracked by the employee on a form to be provided by either Human Resources or Payroll. The requirements listed on the form will be updated based on the AWC WellCity requirements for the coming year, but will include at least the following:

- Earn and Redeem AWC Wellness Reward (via Health Central).
  - For those eligible employees who are not covered under AWC Trust medical plan, the AWC wellness reward is not available and therefore will not be required as a condition to earning the Wellness Day Holiday;

provided, however, that an alternative requirement (as approved by the Wellness Committee in conjunction with Human Resources and the Leadership Team) will be substituted and stated on the requirements form.

- Participation in Four (4) Wellness-Sponsored Activities.
  - Healthy Habits (two (2) required) events that take place over multiple days/weeks (examples include but are not limited to “Wondr” Program, Fall & Spring AWC Campaigns, or program run by EAP, AWC, or other program or activity as approved by Human Resources Manager *(the employee must request approval before beginning program)*).
  - Wellness Events (two (2) required) single day activities (examples include but are not limited to flu shots, blood pressure checks, benefit fair participation, participating at a City of Kenmore Wellness event, or participating in a program run by EAP or AWC or other program as approved by Human Resources Manager *(employee must request approval before beginning program)*).
  - Any such other requirements that the Wellness Committee, in conjunction with Human Resources and the Leadership Team may determine necessary or appropriate.

Employees must submit their completed participation form to Human Resources no later than December 31 of each calendar year to be considered for the Wellness Day Holiday for the following year. Human Resources may request additional or clarifying information, at the City’s discretion.

- 6.18.3 Use of Wellness Day Holiday. If earned, the Wellness Day Holiday must be used in the year issued and may not be cashed out or carried over into the following calendar year.

## **7 PERFORMANCE EVALUATIONS AND TRAINING**

### **7.1 Performance Evaluations**

- 7.1.1 To achieve the City's goals of training, developing, growing, and retaining the best qualified employee for every job, the City conducts annual performance evaluations for all positions. The City Manager is responsible for developing and implementing the City's performance evaluation program and delegates the conducting of performance evaluations to department directors and supervisors. The City Manager delegates responsibility for tracking, processing, and filing performance evaluations.
- 7.1.2 Each employee will generally receive a performance evaluation by the supervisor or department director annually on forms provided by the City. The performance evaluation process is intended to be collaborative, and the employee's input is encouraged. The annual evaluation will typically take place on the anniversary of the hire date, assuming successful completion of a work-trial period (usually six months after the date of hire). (See Section 3.5). The evaluation will objectively assess the employee's performance during the preceding twelve (12) month period. Results of the evaluation will be reviewed and discussed with the employee. The completed and signed evaluation will be filed in the employee's personnel record.
- 7.1.3 The completed evaluation form shall be reviewed by the City Manager prior to it being signed by the department director and the employee. The employee's signature indicates only that the department director discussed the evaluation with the employee but does not signify concurrence in the evaluation by the employee.
- 7.1.4 Only employees who have received an evaluation of satisfactory or above shall be considered for a merit increase or promotion in the applicable review year.
- 7.1.5 The evaluation becomes part of an employee's permanent personnel record and may be a factor in determining the employee's conversion to ongoing status beyond the working test period, whether the employee receives a wage increase, or is to be promoted, transferred, demoted, laid off, or terminated.

## **7.2 Training Policy**

- 7.2.1 The City seeks, within the limits of available resources, to offer training to augment or increase an employee's skills, knowledge and abilities directly related to City employment, to obtain or maintain required licenses and certifications, and to develop and grow its employees. Opportunities may include, but are not limited to: on-the-job training, in-house workshops, conferences, seminars sponsored by other agencies or organizations, and formal educational programs.

## **7.3 Higher Education Degree / Certificate Program**

- 7.3.1 Participation Guidelines. Regular full-time employees, and on a prorated basis, regular part-time employees and job-share employees (that work a minimum of 20 hours per week), who have completed their work trial period are eligible to participate in higher education classes contributing towards a degree program of benefit to the City. The following are guidelines for participation:

- The classes and degree and/or certification program shall be agreed upon by the employee and approved by the employee's department director and City Manager or designee. Reimbursement shall only be allowed when approved in advance of taking a course.
- The subject of the class, degree and/or certificate program must relate to the employee's present or future career path with the City.
- The City will pay a maximum of \$5,000 annually for employee's class tuition costs for a degree and/or certification program.
- The employee will receive full reimbursement of the cost (up to specified programs limits) of class tuition, books, and fees for classes directly related to the employee's present job position and/or current or prospective job duties, upon earning at least a 2.5 grade point equivalent or better. If a pass/fail system is used, a pass is required; if a grade system is used, a "C" or better is required. For grades of 2.0-2.4, the reimbursement amount will be reduced by 50%.
- The City will pay 50% of the tuition, books, and fees (up to \$5,000 annually) for the cost of classes that may not be directly related to the employee's present job position and/or current or prospective job duties but are required for completion of the degree and/or certification program and will be a general benefit to the City. A grade point of 2.5 or better (or "Pass" for pass/fail grade systems) is required. For grades of 2.0-2.4, the reimbursement amount will be reduced by 50%.

- The employee will be required to pay back any tuition, fees, or book costs if that employee voluntarily terminates employment with the City within two years of completion of any class according to the following scale: within 1-year 100%; after 1-year but prior to 2-years 50%.
- Course work will be taken during non-work hours. If this is not possible, the department director may approve flex-time work hours for the purpose of attending approved educational courses, providing that adequate department coverage is available. Travel time for classes not required by the City will not be considered work hours.
- A copy of the employee's grade and proof of payment is required for reimbursement upon course completion.

## **8 EMPLOYEE RESPONSIBILITIES AND CONDUCT**

### **8.1 General Policy**

- 8.1.1 All City employees are expected to represent the City to the public in a professional manner which is courteous, efficient, and helpful. Employees must maintain a clean and neat appearance appropriate to their work assignment, as determined by their position and department director.
- 8.1.2 Since the proper working relationship between employees and the City depends on each employee's on-going job performance, professional conduct, and behavior, the City has established certain minimum standards of personal conduct. Among the City's expectations are: basic tact and courtesy towards the public and fellow employees; adherence to City policies, procedures, safety rules, and safe work practices; compliance with directions from supervisors; preserving, maintaining, and protecting the City's equipment, grounds, facilities, and resources; and providing orderly and cost-efficient services to its residents.

### **8.2 Outside Employment and Conflicts of Interest**

- 8.2.1 Employees shall not, directly or indirectly, engage in any outside employment or financial interest which may conflict, in the City's opinion, with the best interests of the City or interfere with the employee's ability to perform their assigned City job. Examples include, but are not limited to, outside employment which:
- prevents the employee from being available for work beyond normal working hours, such as emergencies or peak work periods, when such availability is a regular part of the employee's job;
  - is conducted during the employee's work hours;
  - utilizes City telephones, computers, supplies, or any other resources, facilities, or equipment;
  - is employment with a firm which has contracts with or does business with the City; or
  - may reasonably be perceived by members of the public as a conflict of interest or otherwise discredits public service.
- 8.2.2 An employee who chooses to have an additional job, contractual commitment, or self-employment, may do so provided he/she notifies his/her immediate supervisor, and does not conflict with Section 8.2.

### **8.3 Political Activities**

- 8.3.1 City employees may participate in political or partisan activities of their choosing provided that City resources, time, and property are not utilized, and the activity does not adversely affect the responsibilities of the employees in their positions. Employees may not campaign on City time or in a City uniform or while representing the City in any way. Employees may not allow others to use City facilities or funds for political activities.
- 8.3.2 Any City employee who meets with or may be observed by the public or otherwise represents the City to the public, while performing his/her regular duties may not wear or display any button, badge, or sticker relevant to any candidate or ballot issue during working hours. Employees shall not solicit, on City property or City time, for a contribution for a political cause.
- 8.3.3 Except as noted in this policy, City employees are otherwise free to fully exercise their constitutional First Amendments Rights.

### **8.4 No Smoking Policy**

- 8.4.1 For health and safety considerations, the City prohibits smoking by employees in all City facilities, including City-owned buildings, vehicles, and offices or other facilities rented or leased by the City, including individual employee offices.
- 8.4.2 Smoking, if done outdoors, cannot be done during work time and must be at least 25 feet from any entrances, and also at least that far away from coworkers and all entrances and air intakes to buildings so that smoke stays outside of the buildings.

### **8.5 City Facilities and Equipment**

- 8.5.1 All City facilities, equipment, computers, tools, assets, and services shall be for official use only. All employees should understand and be aware that they have no right to or expectation of privacy with respect to the employee's use of the City's facilities or City-provided equipment, supplies, and programs, including but not limited to computer, voice mail, email, and the Internet. All information contained on City provided equipment, supplies, and programs remain at all times the exclusive property of the City, and the City may monitor and review such information at any time, in its sole discretion.

- 8.5.2 For the safety of the employees and/or the welfare of the City, the City may search and inspect both City property and personal items brought onto City property, which includes owned and leased facilities, surrounding grounds, and parking areas (but excludes employee personal vehicles, except as set forth in Policy 8.17.6). Refusal to cooperate in a search, inspection, or investigation may result in disciplinary action, up to and including termination. City property eligible for search shall include, but is not limited to: individual lockers, desks, filing cabinets, and computers.

## **8.6 Electronic Usage**

- 8.6.1 As a public employee, employees should assume that anything they generate, or any electronic communications they have via any City owned and/or provided equipment, supplies, and programs is/are subject to public disclosure and therefore tailor their usage of the City's equipment, supplies, and programs accordingly.
- 8.6.2 All information stored on and/or transmitted by City-provided equipment, supplies, and programs always remain the exclusive property of the City, and the City may monitor and review such information at any time.
- 8.6.3 The City's computer, voice mail, text mail, cell phone, and Internet systems are the exclusive property of the City, and the use thereof should be limited to City business and purposes. Occasional, incidental, and brief personal use of the City computers and phone system will be allowed so long as such use occurs during non-work time, is not excessive, does not interfere with the employee's or others' work duties, is not for personal profit or for the profit or benefit of a third party, and otherwise does not violate any City policy or work rule.
- 8.6.4 Unacceptable and/or inappropriate non-work-related activities, including the downloading, viewing, or sending of insulting, disruptive, offensive, derogatory, profane, or discriminatory messages are strictly prohibited. Examples of forbidden transmissions include, but are not limited to: sexually explicit messages, cartoons or jokes, sexual propositions or love letters, ethnic or racial slurs, or any other message that can be construed to be harmful to morale, harassment, or disparagement of others based on their sex, race, age, national origin, religion, creed, sexual orientation, gender identity or expression, marital status, disability, or any other class protected by law.



- 8.6.5 All system passwords and encryption keys must be made available to the City. Employees are prohibited from generating unauthorized passwords or encryption keys on their computers. The creation of unauthorized password-protected files will be grounds for disciplinary action, and any files protected by unauthorized password or encryption keys will be subject to review by the City. Employees are further prohibited from using others' authorized passwords or keys encryption to gain access to files to which the employee has not been given access.
- 8.6.6 Using City owned and/or provided equipment, supplies, and programs to solicit outside business ventures for personal, political, or religious uses is strictly prohibited.
- 8.6.7 No software or files including but not limited to shareware, freeware, patches, or demos are to be downloaded to City equipment without prior written permission from the Finance & Administration Director or their designee.
- 8.6.8 Any abuse of the privilege to access and use the City electronic systems may result in immediate loss of such privilege and may result in disciplinary action.

## **8.7 Vehicle Usage**

- 8.7.1 The City provides vehicles for certain business use to allow employees to drive on City business and to reimburse employees for business use of personal vehicles according to the guidelines below.
- 8.7.2 Employees operating a City vehicle or their own vehicle for City business must always hold a valid Washington State Driver's License. For employees who drive on City business, the City reserves the right to periodically verify such employee holds a valid driver's license and to request from the employee and/or appropriate governing agency a copy of the employee's current driving abstract (Motor Vehicle Report). Employees who drive on City business are required to promptly inform their supervisor of any changes that may affect either their legal ability to drive or their continued insurability.
- 8.7.3 Employees operating their own vehicle for City business must carry automobile liability insurance for bodily injury and property damage per Washington State minimum requirements as currently set forth in Chapters 46.29 and 46.30 RCW as may be amended from time to time. Employees should consult with their personal insurance agent to determine whether a special endorsement for

Business Use is appropriate or necessary in connection with their use of their personal vehicle for City business. The City may require the employee to provide proof of such insurance upon initial employment and/or assumption of driving duties and periodically thereafter as requested by the City.

- 8.7.4 Employees may not drive any vehicles for City business without prior approval of their supervisor.
- 8.7.5 Employees must not drive and must promptly notify their immediate supervisor and/or request an accommodation when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes but is not limited to circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of injury, illness, or medication. In the case of medication, an employee should consult with the employee's medical treatment provider or pharmacist to determine whether the medication may impact or impair the employee's ability to safely operate a vehicle and must promptly notify their immediate supervisor if the medication impairs the employee's ability to safely drive.
- 8.7.6 Employees who drive a vehicle on City business must exercise due diligence, drive safely, and maintain the security of the vehicle and its contents. As required by Washington State law, seat belts must always be worn while driving or riding in a City vehicle or on City business.
- 8.7.7 Employees are strictly prohibited from using cellular phones while operating a motor vehicle (this includes talking, texting, emailing, and/or browsing the internet). Employees should safely pull over prior to using a cell phone for any purpose. Employees are also responsible for any driving infractions or fines as a result of their driving.

## 8.8 City Credit Cards

Use of City credit cards or credit accounts for personal purchases is prohibited. If this occurs, disciplinary action up to and including termination of employment will be implemented as recommended by the department head or supervisor and determined by the City Manager or his/her designee.

## 8.9 Bulletin Boards

Information of special interest to all employees is posted regularly on the City bulletin boards. Employees may not post any information on these bulletin

boards without the authorization of the City Manager or Human Resources Manager.

## **8.10 Contact with News Media**

The City Manager, communications specialist, or designated department directors shall be responsible for all official contacts with the news media during working hours, including answering questions from the media. The City Manager or department director may designate specific employees to give out procedural, factual, or historical information on particular subjects.

## **8.11 Safety**

- 8.11.1 Every employee is responsible for maintaining a safe work environment and for following City safety rules. Each employee shall promptly report all unsafe potentially hazardous conditions to his/her supervisor. The City will make every effort to remedy problems as quickly as possible.
- 8.11.2 In case of an accident involving a personal injury, regardless of how serious, employees shall immediately notify their supervisor, department director, or the City Manager.
- 8.11.3 Safety Committee. The City requires a Safety Committee made up of City employees. The Committee is constituted and operates according to Washington Administrative Code 296-800-130, 13020, and 13025.
- 8.11.4 Safety Apparel. The City will provide safety apparel and Personal Protective Equipment (PPE) in accordance with applicable state and federal requirements. This may include but is not limited to, safety glasses, protective gloves, ear protection, masks, and hard hats. PPE will be provided to employees on an as-needed basis, subject to inspection and replacement at the discretion of a supervisor. Safety apparel and PPE is property of the City and shall be returned upon separation.
- 8.11.5 Field Employee Uniform Policy. Employees working in the field are representatives of the City. So that our staff who are working in the field will be recognizable as City employees and look professional, the City will provide full-time regular field employees with certain uniform items on an annual basis. Personnel who spend the majority of their day working outdoors and/or performing physical labor will wear the designated uniform as determined by the Department Head. Field employee uniforms will include above the waist

items, below the waist items, and safety footwear. Uniformed employees may use the annual allowance to purchase uniform items authorized by the City. These items may be purchased in quantity by the City and issued to employees at cost against the annual uniform allowance per policy. If an employee spends their maximum allowance and requests additional items, these may be purchased at the employee's expense.

8.11.5.1 Defined Uniform and Annual Allowances:

|   |          |
|---|----------|
| Above the waist uniform (shirts, sweatshirts, etc.) | \$250.00 |
| Below the waist uniform (pants)                     | \$250.00 |

If an employee spends less than the above-the-waist allowance, they may use the remaining amount toward the below-the-waist allowance; and vice versa.

8.11.5.2 Safety Footwear: Designated field employees are required to wear sturdy-soled work boots made of leather or equally firm material, with sturdy impact resistant toe. Employees are required to obtain approval from their supervisor before purchasing below the waist uniform and footwear items. The annual safety footwear allowance is available only to those employees designated by the department director.

|                                  |          |
|----------------------------------|----------|
| Annual Safety Footwear Allowance | \$350.00 |
|----------------------------------|----------|

8.11.5.3 The City Manager may, at the City Manager's discretion, annually increase the uniform and footwear allowances in this policy by up to the same percentage as the annual cost-of-living wage increase granted to employees (see Section 4.3.8). Such increase, if given, shall be prospective and not retroactive.

8.11.3.4 Newly hired field employees will be provided four uniform shirts upon hire; the final complement of uniform will be available after 90 days.

8.11.3.5 Employees are expected to wear clean, presentable uniforms while at work. Employees must launder uniforms on their own time; however, the City's washer and dryer may be used for uniform items. The City

does not pay for or reimburse dry cleaning or other laundering service costs.

- 8.11.3.6 Seasonal Employees: The City will provide full time seasonal field employees with all necessary PPE items as well as five (5) logo T-shirts, two pairs of pants, and footwear as needed for the position.

## **8.12 Substance Abuse**

- 8.12.1 The City is committed to protecting the safety, health, and well-being of its employees, the public it serves, and all people who come into contact with the City and the services it provides. Drug and alcohol abuse pose a direct and significant threat to this goal and to the goal of providing a productive and efficient work environment in which all employees have an opportunity to reach their full potential. Accordingly, the City is committed to assuring a drug-free work environment for all its employees.
- 8.12.2 The City strictly prohibits the use, purchase, possession, sale, conveyance, distribution, and manufacture of illegal (whether under federal and/or state law) drugs, intoxicants, controlled substances, and/or drug paraphernalia associated with illegal drug use while on the job, while on City property, while operating City vehicles, or while otherwise representing the City. The City further prohibits employees from being under the influence of alcohol (defined as having an alcohol concentration level of 0.04 or greater) or controlled substances (any detectable trace in the body system) while on duty. This policy applies to all City employees.
- 8.12.3 Prescription medications or nonprescription medications are not prohibited when taken in accordance with a lawful prescription, as applicable, and consistent with standard dosage recommendations. Prescription medication means a drug or medication lawfully prescribed under both federal and state law by a physician or other health care provider licensed to prescribe medication for an individual and taken in accordance with the prescription; but specifically excludes, without limitation, medical cannabis, which remains a controlled substance prohibited by federal law. Employees who are taking a prescription or over-the-counter medication that may impair their ability to perform their duties safely and effectively must notify their supervisor and should provide written notice from their physician or health care provider with respect to the effects of such medication. The City may, at its discretion, send an employee home if the employee appears impaired by the use of prescription

and/or over-the-counter medications and such impairment impacts the employee's ability to safely and/or effectively perform his or her duties.

8.12.4 City employees who are assigned primary on-call or stand-by duty are expected to immediately respond to a City on-call request and perform City business. Assigned primary on-call or stand-by personnel may not report for duty and conduct City business when their performance may be impaired due to alcohol or drug use. Accordingly, assigned primary on-call or stand-by personnel must refrain from using alcohol or drugs while on-call or stand-by duty.

8.12.5 All City employees shall be subject to pre-employment, reasonable suspicion, post-accident, return to duty, and follow-up drug testing, as follows:

- Pre-Employment. Employees hired into a safety-sensitive position or a position requiring the operation of commercial vehicles must pass a drug and alcohol test as a post-offer condition of employment with the City.
- Reasonable Suspicion. Where the City has reason to suspect that an employee has violated or is presently violating or is otherwise under the influence of alcohol or drugs, such employee may be required to immediately submit to an alcohol or drug analysis test. A referral for testing will be made on specific and objective facts and reasonable inferences drawn from these facts by supervisory personnel. Among other things, such facts and inferences may be based upon: (i) an employee showing signs of impairment, such as (but not limited to) difficulty in maintaining balance, slurred speech, inability to visually focus, or otherwise appearing unable to perform assigned work in a safe and satisfactory manner; (ii) the smell of alcohol or illicit drugs on the employee's breath or person; (iii) abnormal conduct or appearance or erratic behavior while at work or a significant deterioration of work performance; and/or (iv) a report of alcohol or other drug use provided by a reliable and credible source. Failure to comply with reasonable suspicion testing requirements will be grounds for disciplinary action, up to and including termination.
- Post-Accident. Following an accident involving a City vehicle or City equipment, the driver/operator of such vehicle or equipment is required to submit to an alcohol and drug test when (1) the driver receives a citation under state or local law for a moving traffic violation; (2) an injury or fatality occurs as a result of the accident; (3) the accident results in damage to one or more vehicles or equipment which requires the removal of the vehicle/equipment by towing or otherwise is estimated to exceed \$2,000; or

(4) the City Manager or designee deems it appropriate under the particular circumstances. Testing shall occur as soon as possible and must occur within eight (8) hours after the accident for alcohol testing and 32 hours after the accident for drug testing. An employee required to take a post-accident alcohol test may not use alcohol for eight (8) hours following the accident, or drugs for thirty-two (32) hours following the accident, or until a post-accident test is given, whichever comes first. An employee who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with testing or results of testing. Failure to comply with post-accident testing requirements will be grounds for disciplinary action, up to and including termination.

- Return to Duty. Employees who have violated this policy, including those who have tested positive on a drug or alcohol test, and who under the City's disciplinary policy can return to work, must test negative prior to being released for duty.
- Follow-Up. An employee who is referred for assistance that is related to alcohol misuse and/or use of drugs is subject to unannounced follow-up testing for a period not to exceed 60 months as directed by a substance abuse professional and the City. The number and frequency of follow-up testing will be determined by the substance abuse professional and the City but will not be less than six tests in the first 12 months following the employee's return to duty.

8.12.6 Employees who are directed to submit to a drug and/or alcohol test must promptly report to the testing agency—under most circumstances, this will mean that the employee must report for testing no later than one hour after having received notice of the testing. In reporting for testing, the employee must report to the nearest testing facility and may not make any detours or stops enroute to the testing facility. A City representative may accompany the employee to the testing facility, where the supervisor or department head deems it appropriate. The City retains a qualified third-party administrator as its service agent to provide and coordinate the drug and alcohol testing services referenced in this policy. Employees are expected to cooperate with the administrator and to comply with the directives issued by the administrator in administering and coordinating the tests required pursuant to this policy.

8.12.7 Employees who test positive for drugs may request a second test of the remaining portion of the split sample within 72 hours of notification of a

positive test result by the medical review officer responsible for receiving and interpreting the drug test.

- 8.12.8 A refusal to take a drug and/or alcohol test as required by the City, an undue delay in reporting for testing as instructed by the City, and/or utilizing any means designed to “cheat,” adulterate, or substitute the sample or otherwise render a false negative report shall be deemed the equivalent of a positive result and an employee engaging or assisting in such measures shall be subject to disciplinary action, up to and including termination.
- 8.12.9 Violating this policy will subject the violating employee to discipline, up to and including discharge. At a minimum, employees who test positive for alcohol or drugs shall be immediately removed from safety sensitive functions and may be suspended without pay, pending further evaluation and recommendation from a substance abuse professional (SAP).
- 8.12.10 Employees who are found to have violated this policy but who are allowed to return to work under the City’s disciplinary process shall be required to first submit to an Employee Assistance Program (EAP) evaluation and shall receive a one-time opportunity to enter a treatment program, if so recommended by an SAP. Upon return to work, the employee will be required to accept, and comply with, the terms of a “last chance agreement” and will be subject to the follow-up testing requirements as set forth above.
- 8.12.11 The City considers drug addiction and alcoholism to be treatable diseases. Employees are encouraged to seek treatment voluntarily and to utilize the City-provided EAP before an alcohol or drug abuse problem affects their job performance or employment status and before they are asked to submit to a drug and alcohol test. All alcohol or drug inpatient and outpatient treatment programs paid through the City’s health care plan should be accessed through the EAP. The City will accommodate employees who voluntarily seek treatment for a drug or alcohol addiction before they are requested to submit to a drug and alcohol test and/or are otherwise the subject of an investigation and/or disciplinary action for a potential violation of this or any other policy or other performance issue(s). Assistance will be provided on a confidential basis. Employees are encouraged to “self report,” and their job status with the City will not be jeopardized as a result of such report; provided, the report is made prior to the City requesting a drug and alcohol test from the employee or otherwise initiating an investigation and/or disciplinary action into suspected policy



violations or related performance issues. Any employee who self-reports under these guidelines will be given a sufficient opportunity to seek evaluation, education, and/or treatment to establish control over the employee's substance abuse problem. However, self-reporting employees will not be permitted to perform safety-sensitive functions until the City is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements recommended by an SAP or other drug and alcohol abuse evaluation expert. Prior to allowing an employee to return to safety-sensitive functions, the City shall require a return-to-duty test.

- 8.12.12 Employees are specifically notified that the passage of Initiative 502, which amends Washington state law effective December 6, 2012, to decriminalize the possession and private use of a limited amount of cannabis by persons over the age of 21, shall have no effect or impact upon this policy. Pursuant to the Controlled Substances Act of 1970, 21 U.S.C. § 801 et seq., "marijuana" remains a "Schedule I" controlled substance, and its possession and/or use is illegal under federal law. Employees should recognize and understand that the "legalization" of cannabis under state law (for both medical and recreational purposes) will not excuse or otherwise constitute a "defense" to a positive drug test administered by the City in accordance with this policy. A positive test for cannabis may constitute a violation of this policy and shall be grounds for disciplinary action, up to and including termination.

### **8.13 Commercial Driver's Licenses**

- 8.13.1 Those employees who are required to operate commercial vehicles, and therefore are required to hold a commercial driver's license (CDL), are subject to additional policies, restrictions, and requirements regarding their employment.
- 8.13.2 A job candidate hired into a position that requires a CDL will be required to submit to a post-offer, pre-employment drug and alcohol test. Initial employment is conditioned upon that person satisfactorily passing such test.
- 8.13.3 Additionally, if a job candidate is to be hired for a position that requires a CDL and has a prior commercial driver history, they must authorize a request from all former employers to release information regarding positive alcohol or drug tests and refusals to be tested for the past 2 years of employment. This information should be obtained before the person is employed by the City. If the information is not obtained by the anticipated hire date, and if the person

has passed the pre-employment drug and alcohol test (as applicable), the person may be hired and the requested information must be obtained from the previous employer(s) within 14 calendar days of the date of hire. If the information is not received within the 14 calendar days, the person shall not be permitted to drive commercial vehicles until the information has arrived. If the information does not timely arrive, or if the information obtained from a previous employer(s) indicates either a positive test or a refusal to be tested, or if the employee obstructs or interferes with the release of the information, the employee shall not be permitted to drive commercial vehicles and may be terminated.

- 8.13.4 CDL holders are also subject to random drug and alcohol testing, in accordance with USDOT guidelines.
- 8.13.5 CDL holders must also report accidents, traffic convictions, and/or license suspensions/revocations (whether on or off the job) in accordance with USDOT requirements. CDL holders are responsible for knowing, understanding, and complying with their licensing obligations. The City will perform an annual check of the status of each employee's CDL, as applicable.
- 8.13.6 In addition to the drug and alcohol policy set forth above, those employees who are required to have and maintain a CDL in order to perform their duties or who perform safety sensitive duties are further subject to the drug and alcohol testing requirements and regulations established by the United States Department of Transportation (USDOT) and its designated agencies. These regulations are generally explained in Appendix D. City employees holding a CDL or performing safety-sensitive duties will be subject to USDOT Drug and Alcohol Testing Regulations, 49 CFR Part 40. To the extent that the USDOT policy conflicts with the general policy set forth above, the USDOT policy shall govern employees holding a CDL.
- 8.13.7 Additionally, the City is registered with the Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse and shall comply with the Controlled Substances and Alcohol Use and Testing regulations set forth in 49 CFR Part 382. As part of these requirements, the City (or City's designated agent) shall automatically report to the Clearinghouse, any of the following events or occurrences:
  - A verified positive, adulterated, or substituted drug test result.

- An alcohol confirmation test with a concentration of 0/04 or higher.
- An employee's refusal to submit to a drug or alcohol test.
- The City's actual knowledge (as defined by 49 CFR § 382.107) of:
  - An employee's pre-duty, on-duty, or post-accident use of alcohol as prohibited by 49 CFR §§ 382.207, .205, and .209.
  - An employee's controlled substance use as prohibited by 49 CR § 382.213.
  - Verification from a SAP that an employee has successfully completed the return-to-duty process.
  - The employee's negative return-to-duty test.
  - The City's report of completion of any required follow-up testing.

8.13.8 All employees are expected to read and understand the contents of this policy. Any questions regarding the policy should be directed to the Human Resources Manager.

## **8.14 Complaint Procedures**

8.14.1 The City recognizes that situations arise in which an employee feels that they have not been treated fairly or in accordance with City rules and procedures or evaluated correctly for performance. For this reason, the City provides its employees with procedures for resolving complaints.

8.14.2 Step 1: An employee should first try to resolve any problem or complaint with their supervisor within five (5) working days of the incident or evaluation.

8.14.3 Step 2: When normal communication between an employee and the supervisor is not successful, when the problem or complaint involves discrimination or harassment by the supervisor, or when an employee disagrees with the application of City policies and procedures or the performance evaluation, the employee should submit a written statement to the department director within three (3) working days. The department director will respond to the employee in writing within three (3) working days after meeting with the employee, if possible. The employee's written statement should contain:

- A description of the problem.
- A specific policy or procedure which the employee believes has been violated or misapplied, or the perceived evaluation oversight.

- The date and approximate time of the circumstances leading to the complaint; or the date when the employee first became aware of those circumstances; or the date and time of the evaluation.
- The steps taken by the employee to deal with the problem.
- The remedy sought by the employee to resolve the complaint.
- The written complaint shall be filed within five (5) working days of the occurrence leading to the complaint or of the time the employee becomes aware of the circumstances, or of the evaluation complained of.

8.14.4 Step 3: If the employee is not satisfied with the response from the department director, the employee may submit the problem, in writing, to the City Manager within three (3) working days of the response (or lack thereof) from the department director. The written complaint must contain, at a minimum:

- A description of the problem.
- A specific policy or procedure which the employee believes has been violated or misapplied, or the perceived evaluation oversight.
- The date and approximate time of the circumstances leading to the complaint; or the date when the employee first became aware of those circumstances; or the date and time of the evaluation.
- The steps taken by the employee to deal with the problem.
- The remedy sought by the employee to resolve the complaint.

8.14.5 The City Manager may meet with the parties, either individually or together, and will respond in writing to the aggrieved employee within three (3) days of the meeting. The City Manager's response and decision shall be final and binding.

8.14.6 Any complaint which is not noticed within the time limits established herein, or which is not timely taken to the next level of review, shall be considered settled on the basis of the last reply made and received in accordance with the provisions of this section.

8.14.7 The time limits prescribed in this section for the initiation and completion of the steps of the review process may be extended by the City or by mutual consent of the parties involved.

## **8.15 Reporting Improper Governmental Action and Protecting Employees Against Retaliation**

8.15.1 It is the policy of the City to:

- Encourage reporting by its employees, of improper governmental action taken by the City of Kenmore officers and employees; and
- Protect City employees who have reported improper governmental actions in accordance with the following policy and procedures. To so assure, the City is adopting the following practices to pledge compliance with RCW Chapter 42.40, which is intended to assure local government employees protection and freedom from retaliation when disclosing improper governmental actions, protect legitimate employer interests by encouraging reporting to the local government body, and provide a speedy dispute resolution method.

8.15.2 For the purposes of this policy:

- “Improper Governmental action” means any action by a City employee: (a) that is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's employment; and (b) is in violation of any federal, state, or local law or rule; is an abuse of authority; is of substantial and specific danger to the public health or safety; or is a gross waste of public funds.
- “Improper governmental action” does not include personnel actions, including, but not limited to, employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, re-employment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of civil service laws, alleged labor agreement violations, reprimands, or any action which may be taken under RCW Chapters 41.06 or 28B.16, or other disciplinary action except as provided in RCW Chapter 42.40.030.
- “Retaliatory action” means any adverse change in the terms and conditions of a City employee's employment that can be reasonably and causally connected with the employee's reporting of improper governmental action.
- “Emergency” means a circumstance that if not immediately changed may cause damage to persons or property.

8.15.3 Procedures for reporting improper governmental actions. The City employee who becomes aware of improper governmental actions should:

- Bring the issue to the attention of an uninvolved department director.<sup>1</sup> If the employee reasonably believes there are no uninvolved department directors, the employee should bring the issue to the attention of the City Attorney.
- The employee shall submit a written statement or report to the uninvolved department director (or City Attorney if there are no uninvolved department directors) stating in detail the basis for the employee's belief that an improper governmental action has occurred.
- The department director shall review the report with the City Attorney and the City Manager. The City Attorney and the City Manager will determine an Investigating Official. The Investigating Official may be a department director, Human Resources Manager, or an appropriate designee.
- The Investigating Official shall take prompt action to properly investigate the report of improper governmental action. The City employees involved in the investigation shall keep the identity of the reporting employee confidential to the extent possible under law. After an investigation has been completed, the employee reporting the improper government action shall be advised of a summary of the results of the investigation, except any personnel actions taken as a result of the investigation may be kept confidential (to the extent possible under law).
- Alternatively, City employees may report information about improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action if:
  - The employee reasonably believes that an adequate investigation was not undertaken by the City of Kenmore to determine whether an improper governmental action occurred;
  - Insufficient action has been taken by the City to address the improper governmental action; or
  - The improper governmental action is likely to recur.

8.15.4 City employees who fail to make a good faith attempt to follow the above procedures in reporting improper governmental actions shall not receive the protection provided in these procedures.<sup>2</sup>

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<sup>1</sup> In the case of an emergency, when the employee believes that the damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action.

<sup>2</sup> In the case of an emergency, when the employee believes that the damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency with the responsibility for investigating the improper action.

- 8.15.5 Protection against retaliatory action. City employees are prohibited from taking retaliatory action against a City of Kenmore employee because they have, in good faith, reported an improper governmental action in accordance with these policies and procedures.
- 8.15.6 Employees who believe that they have been retaliated against for reporting an improper governmental action should:
- Advise their supervisor or other department director or the City Manager in writing within thirty (30) calendar days after the occurrence of the alleged retaliatory action. The person receiving the report shall take appropriate action to investigate and address complaints of retaliation within thirty (30) calendar days from the date notice was given to the City by the employee. If all the above persons are involved in the alleged retaliation, the employee may direct this to the City's Hearing Examiner or the City Attorney.
  - If the investigation does not satisfactorily resolve the employee's complaint that they have been retaliated against in violation of these policies, the employee may obtain protection under this policy and pursuant to State law by providing a written notice, within sixty (60) calendar days after receipt of the outcome of the investigation, to the City Council which specifies the:
    - Alleged retaliatory action; and
    - Relief requested.
  - After receiving either the response from the City Council or thirty (30) calendar days after the delivery of the charge to the City Council, the employee may request a hearing before a State Administrative Law Judge to establish that a retaliatory action occurred and to obtain appropriate relief provided by law. An employee seeking a hearing should deliver the request for a hearing to the City Manager within the earlier of either fifteen (15) calendar days of receipt of the outcome of the City Council investigation to the charge of retaliation or forty-five (45) calendar days of delivery of the charge of retaliation to the City Council for response.
  - Upon receipt of the request for hearing, the City Manager shall apply, within five working days, to the State Office of Administrative Hearings for an adjudicative proceeding before an Administrative Law Judge, Office of Administrative Hearings.
  - If a determination is made that retaliatory action has been taken against the employee, the Administrative Law Judge may, in addition to any other remedy, impose a civil penalty personally upon the retaliator.

- The City of Kenmore will consider any recommendation provided by the Administrative Law Judge that the retaliator be suspended with or without pay or dismissed.

8.15.7 The City Manager is responsible for implementing the City policies and procedures for:

- Reporting improper governmental action; and
- For protecting employees against retaliatory actions.
- This includes ensuring that this policy and these procedures are permanently posted where all employees will have reasonable access to them and are made available to any employee upon request and are provided to all newly hired employees.

8.15.8 Directors, managers, and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. Violations of this policy and these procedures may result in appropriate disciplinary action.

8.15.9 Assistance with Whistleblower Claims. Employees with questions regarding how to file a whistleblower claim should refer to <https://sao.wa.gov/report-a-concern/how-to-report-a-concern/whistleblower-program/whistleblower-faqs/>.

## **8.16 Workplace Violence**

8.16.1 The City is committed to serving a wide range of individuals within its jurisdictional boundaries. In providing services to the City's many customers, City employees may on occasion be placed in situations in which they are confronted with hostile, violent, or threatening behavior. The City values its employees and residents and, with this policy, affirms its commitment to providing a workplace and facility that is free from violence.

8.16.2 The City may, on occasion and in its discretion, provide crime prevention information to employees and address security issues involving the workplace and City facilities.

8.16.3 Employees in many departments deal with customers and other members of the public who are distressed and who may make threats or commit acts of violence. It is also possible a violent act or threat may be made by an employee's family member or acquaintance towards a City employee. It is also



possible that a threat or act of violence may be made by an employee of the City.

- 8.16.4 Importantly, the City will not tolerate violent acts or threats of any kind, whether by customers, family members, other members of the public, or City employees. If an employee is the recipient of or a witness to any act or threat of violence, the employee must notify the employee's department director or the City Manager, regardless of the perceived "seriousness" of the act or threat. The reporting of an act or threat of violence is not discretionary; employees failing to report a known incident of violence and thereby violating this policy shall be subject to disciplinary action up to possible termination.
- 8.16.5 Upon receiving a report of a violent act or threat that affects the workplace or a City employee, the City will investigate the incident and undertake all measures it deems appropriate to respond to the incident and to protect potentially affected employees. Some situations may require the intervention of local law enforcement agencies. In other situations, the City may deem it appropriate to provide support and guidance to employees so that threats or acts of violence can be recognized and prudently addressed. The City will promptly respond to all reported incidents of violence by undertaking those measures it deems appropriate.
- 8.16.6 The City Manager is charged with the administration of workplace violence prevention measures and responses. Department heads and department directors are responsible for ensuring this policy is implemented in their respective departments and that the uniqueness of their departments is addressed through procedures and training. Each supervisor and manager makes safety a priority.
- 8.16.7 Employees should learn to recognize and respond to behaviors by potential perpetrators that may indicate a risk of violence. Employees are to also place safety as the highest concern. The City may from time to time train its employees on workplace safety issues to reduce workplace violence.

## **8.17 Weapons Prohibited**

- 8.17.1 City employees are prohibited from possessing firearms or any other dangerous weapons of any type in the workplace, City vehicles, City job sites, or other facilities owned and/or managed by the City. This prohibition applies

even though an individual may be licensed in their private capacity to carry a concealed weapon.

8.17.2 For purposes of this policy, a “firearm” is generally defined as any device designed to expel a projectile by means of an explosion and expanding gases. “Dangerous weapons” shall generally include any object carried for the purpose to injure or intimidate others.

8.17.3 Prohibited dangerous weapons include but are not limited to:

- All firearms of any nature, whether pistols, revolvers, rifles, semi-automatic or automatic weaponry, or any other type of gun.
- Dangerous knives (defined as any knife or dagger, regardless of its type, having a blade length greater than three (3) inches measured from the point where the knife blade meets the knife handle to the tip, and including any Balisong (also known as butterfly) knife or switchblade knife. Small, standard pocketknives (such as a Swiss Army knife) are not considered a “dangerous knife.”
- Explosive devices of any kind.
- Slingshots, nunchaku sticks, and the like.
- Clubs, sand clubs, throwing stars, and the like.
- Metal knuckles.
- Air guns, pellet guns, blow guns.
- Any replica or other item that simulates any of the above items.

8.17.4 The “workplace” shall mean the City’s administrative or operation offices, spaces, or facilities, including but not limited to City Hall, the Hangar, Senior Center, Public Works Operations Center, Public Works yard, and City job sites. It also includes City vehicles and City parking lots.

8.17.5 This policy shall not apply on duty to law enforcement personnel who are authorized to carry weapons in connection with their law enforcement duties. This policy also does not apply to tools which are authorized by the City and issued to employees in connection with their official duties, nor does this policy apply to kitchen utensils and tools used for food preparation and consumption on City premises. Additionally, the City Manager may, in their discretion, authorize field employees to carry pepper spray or similar compound in their vehicles or on their person when such employees’ duties require individual contact with unknown third parties. Any employee wishing to carry pepper

spray or a similar compound must obtain approval from the City Manager prior to doing so. When so approved, employees will generally be required to either carry such compound securely on their person or store such compound in a locked vehicle or locker while present in the workplace.

- 8.17.6 This policy does not apply to employees' personal vehicles parked on City property unless: the employee's vehicle is used for work-related activities and the City needs to inspect the vehicle to ensure the vehicle is suited to conduct such activities; there is a reasonable belief that accessing the vehicle is necessary to prevent an immediate threat to human health, life or safety; the inspection is lawfully conducted by law enforcement officers; or the employee consents to an inspection of their vehicle based on probable cause that the employee unlawfully possesses City property or a controlled substance in violation of federal law and the City's Drug and Alcohol Policy (where such consent is granted, the employee has the right to select a witness to be present for the inspection).

## 9 DISCIPLINE AND TERMINATION

### 9.1 Discipline

- 9.1.1 All employees are expected to exercise good judgment, loyalty, common sense, dedication, respect, and courtesy in the performance of their duties. The primary mission of every employee is to provide courteous, orderly, effective, and efficient delivery of services to the residents and customers of the City.
- 9.1.2 Acts, errors, or omissions which discredit the public service or impair the provision of effective and efficient services to the public may result in discipline, including termination.
- 9.1.3 The City Manager, department director, or supervisor, as appropriate, has full discretion and authority to impose disciplinary action in accordance with City policy and the circumstances of the particular case, and to deviate from such policies at the City Manager's sole discretion.
- 9.1.4 The following examples of the types of behavior which may result in discipline are offered here by way of example only, and not by way of limitation or exclusion:
- Violation of the City's substance abuse policies;
  - Violation of a lawful duty;
  - Insubordination;
  - Absence from work without first notifying and securing permission from the supervisor;
  - Habitual absence or tardiness;
  - Unsatisfactory job performance, as determined by the City;
  - Conviction of a felony or a misdemeanor involving dishonesty or moral turpitude;
  - Acceptance of fees, gratuities, or other valuable items in the performance of the employee's official duties for the City;
  - Refusal, inability, or failure to perform the duties of the assigned job;
  - Violation of rules, duties or roles imposed by this manual, or by any other City rule, regulation, or administrative order;
  - Violation of the City's non-harassment / non-discrimination policies;

- Violations of safety rules or common safety practices; personal conduct at work which is dangerous to others; failure to report on the job injuries or accidents promptly to employee's supervisor;
- Negligent or willful damage to the City's property, waste of supplies or equipment, theft; unauthorized possession or use of City property, equipment, or materials; theft of City property or property belonging to employees or customers;
- Discourteous treatment of the public or other employees; and
- Any other conduct that the City considers inappropriate.

9.1.5 The City may discipline or terminate employees for other reasons not stated above. Nothing in this policy modifies employees' at-will status.

9.1.6 In the event that discipline is necessary, the following types of disciplinary actions may be used, at the City's sole discretion, and need not be used in the order set forth below:

9.1.6.1 Verbal Counseling. A verbal counseling is a counseling session between the employee's supervisor and the employee on the subject of the employee's conduct and performance, or their failure to observe a rule, regulation, or administrative instruction. It is intended to improve the employee's performance by changing the employee's conduct, behaviors, attitude, habits, or work methods. Following the counseling session, the supervisor should document the oral warning, in writing in the employee's personnel file.

9.1.6.2 Reprimand. A reprimand is a formal written disciplinary action that may be used for misconduct, inadequate performance, repeated lesser infractions, or any other situations where warranted. Written reprimands are placed in the employee's personnel file.

9.1.6.3 Trial Work Period. An employee may be placed on trial work period after a verbal counseling and reprimand are provided. The City Manager must approve any trial work periods.

9.1.6.4 Suspension. A suspension is a temporary, unpaid absence from duty which may be imposed as a penalty for significant misconduct, repeated lesser infractions, or any other situations where warranted. A suspension is a severe disciplinary action which is made part of

the employee's permanent record. Suspensions with pay, where the employee is placed on administrative leave, may be utilized by a department director or the City Manager pending the results of an investigation or disciplinary action where the department director or City Manager determines that factors such as public confidence, the safety of the employee, or the efficient functioning of the City call for such a suspension.

## **9.2 Termination**

9.2.1 Employment with the City is "at-will," which means that the employment relationship can be terminated by the City or the employee at any time. The following are some situations that may result in an involuntary termination, at the City's sole discretion. These situations are by way of examples and not by way of any limitation or exclusion:

- During or at the end of the employee's work trial period.
- As a result of the disciplinary action.
- Due to loss of skills, certifications, or other conditions which would make the employee unfit for service.
- If the employee has a physical or mental impairment that prevents them from performing the essential duties of the employee's position and the employee cannot be reasonably accommodated in their current position. The City will also consider whether the employee has the skills and qualifications necessary to perform other work within the City and will review with the employee other vacant job positions for which the employee is qualified if/as they arise. The City will not create work but will seek to reasonably accommodate disabled employees within the City's work force. The City may require an examination at its expense performed by a physician of its choice. Failure to submit to such request may result in termination.

9.2.2 At-will employees may be terminated at any time, with or without cause and with or without prior notice.

9.2.3 City Manager Review. At-will employees serve at the pleasure of the City Manager. The City Manager will endeavor to review all disciplinary actions with the department director, but final action regarding discipline or discharge of an at-will employee shall be at the City Manager's sole discretion. There shall be no appeal of the City Manager's decision.

### **9.3 Pre-Termination Hearing**

In cases involving the involuntary termination of an employment relationship that is terminable only for cause, or where the reason for the termination has the potential to impugn the terminating employee's reputation in the community if made public, the City will conduct a pre-termination hearing. The pre-termination hearing serves as a check against mistaken decisions and to determine whether there is a reasonable presumption that the charges against the employee are valid and support termination. The City Manager's decision following any pre-termination hearing shall be final.

### **9.4 Layoff**

- 9.4.1 The City Manager may lay off employees for lack of work, budgetary restrictions or reorganization or restructuring of the work force at the City's sole discretion. Affected employees will be given as much notice as possible, with a minimum of fifteen (15) working days notice, before such layoff becomes effective. Every reasonable effort shall be made to transfer affected employees into other available positions for which they are qualified.
- 9.4.2 Whenever a layoff is anticipated, employees whose jobs may be affected should be notified of the situation and the available options as early as possible to allow them time to make the necessary arrangements.
- 9.4.3 Temporary employees performing similar work in the same department should be laid off before regular employees are affected.
- 9.4.4 In determining who is to be laid off, consideration will be given to individual performance and the qualifications required for remaining jobs. Seniority will be considered when performance and qualifications are estimated to be equal.
- 9.4.5 Options such as part-time work schedules, job sharing, and voluntary time off, furloughs, and/or pay reductions may be explored if, in the opinion of the department director or supervisor, such options are feasible and approved by the City Manager.
- 9.4.6 Employees who are laid off may be eligible to be re-employed if a vacancy occurs in a position for which they are qualified.

## **9.5 Resignation**

Employees who choose to resign from his/her employment with the City are required to provide at least two (2) weeks written notice to their immediate supervisor in order to be classified as having resigned in good status.

## **9.6 Severance Agreements**

The City Manager may, if they find it to be in the best interest of the City and in keeping with personnel practices and applicable state law, authorize severance payments and/or other benefits (including but not limited to costs of continuation of health care coverage), in an amount not to exceed \$40,000.00 per occurrence. Such severance payments shall be conditioned upon the receiving employee's execution of a Separation and Release Agreement, which shall include a waiver and release in favor of the City, along with other provisions recommended by legal counsel. Such Separation and Release Agreements shall not require City Council approval; provided, that the City Manager shall timely notify the Council of any such agreements.



## **APPENDIX A: ACKNOWLEDGEMENT AND DISCLAIMER**

### **CITY OF KENMORE PERSONNEL POLICY AMENDED MAY 2023**

#### **ACKNOWLEDGMENT AND DISCLAIMER EMPLOYEE COPY**

By execution, hereof, employee acknowledges that the City of Kenmore has provided him/her/them with a copy of the Personnel Policies of the City, and further that employee has read, understands and agrees to abide by terms and conditions of employment set forth therein.

Employee further understands and agrees that the Personnel Policy Manual does not constitute a contract for, or a guarantee of, employment with the City of Kenmore and does not bind the City to any consideration whatsoever other than payment and benefits for time actually worked or services performed.

The City reserves the right to modify, rescind, delete, or add to the provisions of this Personnel Policy Manual as the City deems necessary and appropriate. Employees will be notified of any changes to this Personnel Policy Manual as they occur. This Personnel Policy Manual supersedes all previous manuals, and any prior written and oral policies, statements, or understanding on the subjects set forth herein.

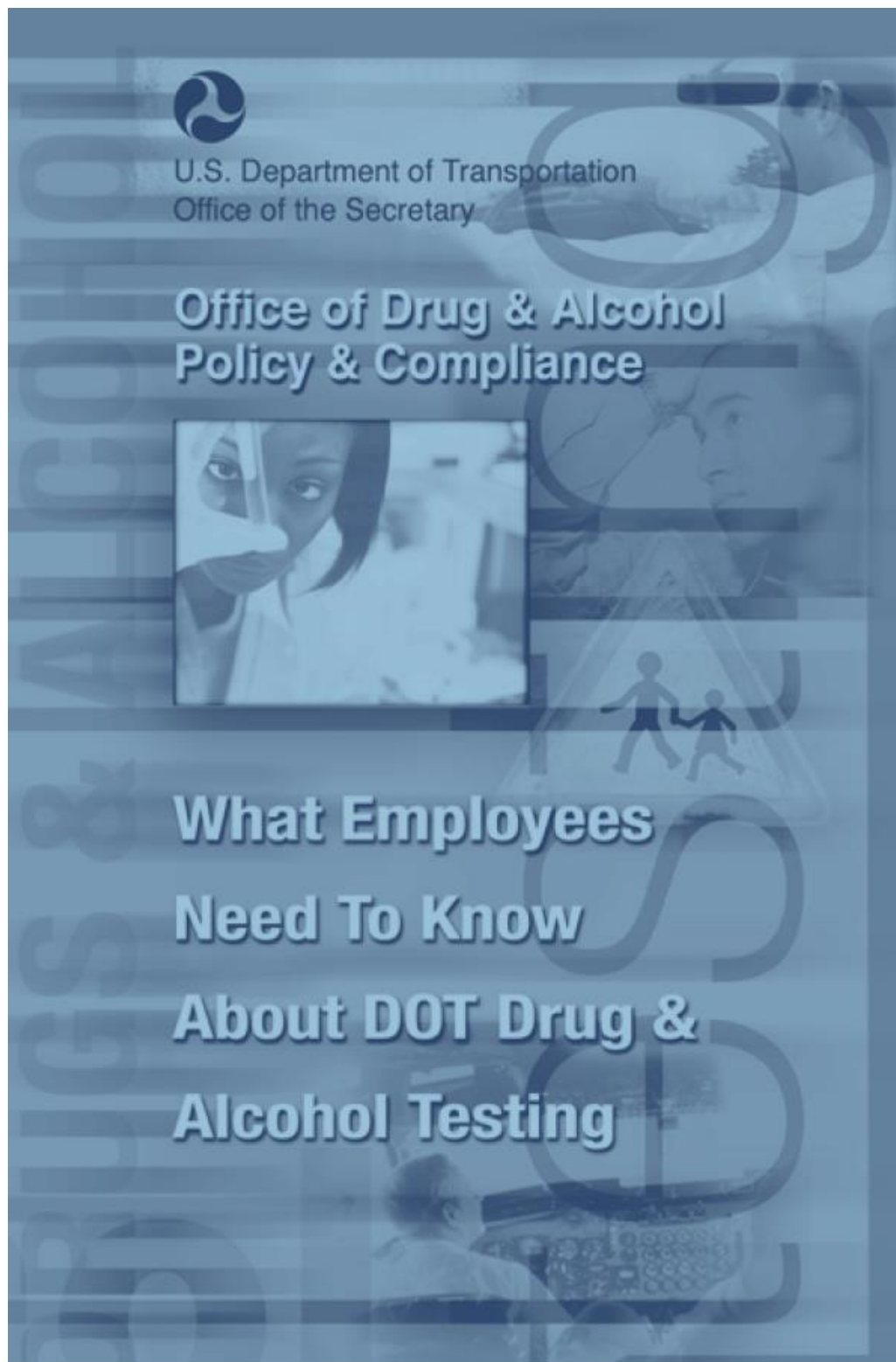
Employee further understands and agrees that employee's employment is at-will, which means that it can be terminated by the City or by the employee, with or without notice, and with or without cause.

---

Employee Signature

Date

## APPENDIX B: DRUG & ALCOHOL TESTING POLICY



**Disclaimer**

This publication was produced by the U.S. Department of Transportation (DOT) to assist safety-sensitive employees subject to workplace drug & alcohol testing in understanding the requirements of 49 CFR Part 40 and certain DOT agency regulations. Nothing in this publication is intended to supplement, alter or serve as an official interpretation of 49 CFR Part 40 or DOT agency regulations. This publication is for educational purposes only.

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For questions, please contact DOT's Office of Drug & Alcohol Policy & Compliance at 202-366-DRUG (3784) or visit our website at [www.transportation.gov/odapc](http://www.transportation.gov/odapc).

**Originating Office**

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# **What Employees Need To Know About DOT Drug & Alcohol Testing**

U.S. Department of Transportation (DOT)

Office of the Secretary (OST)

Office of Drug & Alcohol Policy & Compliance (ODAPC)

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## What Employees Need To Know About DOT Alcohol & Drug Testing

Just entering the transportation industry? Performing tasks defined by the US Department of Transportation (DOT) as safety-sensitive, such as working on pipelines, driving a truck, operating a ferry or a train, or repairing an airplane? Then, you are subject to DOT workplace drug & alcohol testing. Here are the basics you need to know about DOT's program.

### *Who is subject to DOT testing?*

Anyone designated in DOT regulations as a safety-sensitive employee is subject to DOT drug & alcohol testing. What follows is an overview of what jobs are defined as safety-sensitive functions subject to testing.

|   |   |
|---|---|
| <b>Aviation</b><br>FAA                    | Persons that perform safety-sensitive functions, directly or by contract (including subcontract at any tier), for a part 119 certificate holder authorized to conduct part 121 or 135 operations; air traffic control facilities not operated by the FAA or under contract to the U.S. military; and all operators as defined in 14 CFR Section 91.147. The safety-sensitive duties include flight crewmember, flight attendant, flight instructor, air traffic controller, aircraft dispatcher, aircraft maintenance or preventative maintenance, ground security coordinator, aviation screeners and operations control specialist. See FAA regulations at 14 CFR Part 120.   |
| <b>Commercial Motor Carriers</b><br>FMCSA | Commercial Drivers License (CDL) holders who operate Commercial Motor Vehicles, 26,001 lbs. gvwr. or greater, or operate a vehicle that carries 16 passengers or more including the driver, or required to display a DOT placard in the transportation of hazardous material. <sup>1</sup> See FMCSA regulation at 49 CFR Part 382.   |
| <b>Maritime</b><br>USCG <sup>2</sup>      | Crewmembers operating a commercial vessel. See USCG regulations at 46 CFR Parts 4 & 16.   |
| <b>Pipeline</b><br>PHMSA                  | An employee who performs an operation, maintenance, or emergency-response function on a PHMSA regulated pipeline or liquefied natural gas (LNG) facility. See PHMSA regulations at 49 CFR Part 199.   |
| <b>Railroad</b><br>FRA                    | Persons who perform duties subject to the Hours of Service laws; such as, locomotive engineers, trainmen, conductors, switchmen, locomotive hostlers/ helpers, utility employees, signalmen, operators and train dispatchers.<br><br>In addition, a person who performs a maintenance-of-way/roadway worker function (as defined in 49 CFR Part 214) who are employees or contractors of a railroad, have a potential to foul the track, and perform a regulated function such as inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track, as well, flagman and watchmen/lookouts. See FRA Regulations at 49 CFR Part 219. |
| <b>Transit</b><br>FTA                     | Operators of revenue service vehicles when not in service, Operators of nonrevenue service vehicles when required to be operated by a holder of a commercial drivers' license, controlling dispatch or movement of revenue service vehicle, mechanics maintain a revenue service vehicle or equipment used in revenue service, and Fire armed security. See FTA regulations at 49 CFR Part 655.   |

Links to these regulations can be found on-line at [www.transportation.gov/odapc](http://www.transportation.gov/odapc).

<sup>1</sup> In some instances, states allow waivers from this qualification, such as operators of fire trucks and some farm equipment. Check with your state department of motor vehicles for more information.

<sup>2</sup> An agency of the U.S. Department of Homeland Security.



**Remember:** The tasks you actually perform qualify you as a safety-sensitive employee, not your job title. Also, some employees, like managers and supervisors, may be qualified for these jobs but not currently performing them. Do they have to be tested as well? In most cases, yes...if that employee may be asked at a moment's notice or in an emergency to perform a safety-sensitive job. Be sure to check industry specific regulations for further clarification.

### ***Why are safety-sensitive employees tested?***

The short answer is for the safety of the traveling public, co-workers and yourself. The longer answer is that the United States Congress recognized the need for a drug and alcohol free transportation industry, and in 1991 passed the Omnibus Transportation Employee Testing Act, requiring DOT Agencies to implement drug & alcohol testing of safety-sensitive transportation employees.<sup>3</sup>

Within DOT, the Office of the Secretary's Office of Drug & Alcohol Policy & Compliance (ODAPC) publishes rules on how to conduct those tests, what procedures to use when testing and how to return an employee to safety-sensitive duties. Encompassed in 49 Code of Federal Regulations (CFR) Part 40, ODAPC publishes and provides authoritative interpretations of these rules.

DOT agencies and the U.S. Coast Guard write industry specific regulations, spelling out who is subject to testing, when and in what situations. Industry employers implement the regulations that apply to them.

The benefit to all affected by DOT regulations is that each agency's regulations must adhere to DOT's testing procedures found at 49 CFR Part 40, commonly known as "Part 40." For example, you may work in the rail industry and later work in the motor carrier industry, but the procedures for collecting, testing and reporting of your tests will be the same under Part 40.

### ***What information must employers provide when I first begin performing DOT safety-sensitive functions?***

Depending on the DOT agency over-seeing your industry, your employer may be required to provide you with educational materials and a company policy that explain the requirements of DOT's drug & alcohol testing regulations and the procedures to help you comply. If you have not received this information, be sure to ask your employer about it.

### ***What conduct is prohibited by the regulations?***

As a safety-sensitive employee...

- You must not use or possess alcohol or any illicit drug while assigned to perform safety-sensitive functions or actually performing safety-sensitive functions.
- You must not report for service, or remain on duty if you...
  - Are under the influence or impaired by alcohol;
  - Have a blood alcohol concentration .04 or greater; (with a blood alcohol concentration of .02 to .039, some regulations do not permit you to continue working until your next regularly scheduled duty period);
  - Have used any illicit drug.

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<sup>3</sup> The Omnibus Act's testing requirements do not apply to PHMSA.

- You must not use alcohol within four hours (8 hours for flight crew members and flight attendants) of reporting for service or after receiving notice to report.
- You must not report for duty or remain on duty when using any controlled substance unless used pursuant to the instructions of an authorized medical practitioner.
- You must not refuse to submit to any test for alcohol or controlled substances.
- You must not refuse to submit to any test by adulterating or substituting your specimen.

Keep these in mind when preparing to report to work.

### ***What drugs does DOT test for?***

DOT drug tests are conducted only using urine specimens. The urine specimens are analyzed for the following drugs/metabolites:

- Marijuana metabolites
- Cocaine metabolites
- Amphetamines including methamphetamine, MDMA
- Opioids – codeine, heroin (6-AM), morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone
- Phencyclidine (PCP)

#### **Specimens Collected for Drug & Alcohol Testing\***

**Drugs:** Urine

**Alcohol:** Breath & Saliva

\* The FRA requires blood specimens as part of their Post-Accident testing.

To learn more about the effects of these and other drugs visit the following sites:

- Drugs and Human Performance Fact Sheet. National Highway Traffic Safety Administration (NHTSA) [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov).
- Driving While You Are Taking Medications. National Highway Traffic Safety Administration (NHTSA) [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov).
- Drugs of Abuse. National Institute for Drug Abuse (NIDA) <https://www.drugabuse.gov/drugs-abuse>
- Drug Facts. National Institute on Drug Abuse (NIDA) <https://www.drugabuse.gov/publications/finder/t/160/drugfacts>
- Drug Fact Sheets. Drug Enforcement Administration (DEA) <https://www.dea.gov/druginfo/factsheets.shtml>

To learn about where to dispose of unused medicines go to:  
<https://takebackday.dea.gov>

### ***Can I use prescribed medications & over-the-counter (OTC) drugs and perform safety-sensitive functions?***

Prescription medicine and OTC drugs may be allowed.<sup>4</sup> However, you must meet the following minimum standards:

- The medicine is prescribed to you by a licensed physician, such as your personal doctor.
- The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of your duties.

<sup>4</sup> The FRA requires that if you are being treated by more than one medical practitioner, you must show that at least one of the treating medical practitioners has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.

**Best Practice:** To assist your doctor in prescribing the best possible treatment, consider providing your physician with a detailed description of your job. A title alone may not be sufficient. Many employers give employees a written, detailed description of their job functions to provide their doctors at the time of the exam.

- The substance is used at the dosage prescribed or authorized.<sup>5</sup>
- If you are being treated by more than one physician, you must show that at least one of the treating doctors has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.
- Taking the prescription medication and performing your DOT safety-sensitive functions is not prohibited by agency drug and alcohol regulations. However, other DOT agency regulations may have prohibitive provisions, such as medical certifications.

**Remember:** Some agencies have regulations prohibiting use of specific prescription drugs, e.g. methadone, etc.... If you are using prescription or over-the-counter medication, check first with a physician, but do not forget to consult your industry-specific regulations before deciding to perform safety-sensitive tasks. Also be sure to refer to your company's policy regarding prescription drugs.

### ***When will I be tested?***

Safety-sensitive employees are subject to drug or alcohol testing in the following situations:

- Pre-employment.
- Reasonable Suspicion/Cause.
- Random.
- Return-to-duty.
- Follow-up.
- Post-Accident.

#### **Pre-Employment**

As a new hire, you are required to submit to a drug test. Employers may, but are not required to, conduct alcohol testing.<sup>6</sup> Only after your employer receives a negative drug test result (and negative alcohol test result - if administered) may you begin performing safety-sensitive functions. This also applies if you are a current employee transferring from a non-safety-sensitive function into a safety-sensitive position (even if it is the same employer).

#### **Reasonable Suspicion/Cause**

You are required to submit to any test (whether drug, alcohol or both) that a supervisor requests based on reasonable suspicion. Reasonable suspicion means that one or more trained supervisors reasonably believes or suspects that you are under the influence of drugs or alcohol. They cannot require testing based on a hunch or guess alone; their suspicion must be based on observations concerning

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<sup>5</sup> While states may allow medical use of marijuana, federal laws and policy do not recognize any legitimate medical use of marijuana. Even if a state allows the use of marijuana, DOT regulations treat its use as the same as the use of any other illicit drug.

<sup>6</sup> Not every DOT agency requires a pre-employment alcohol test.

your appearance, behavior, speech and smell that are usually associated with drug or alcohol use.

### **Random**


You are subject to unannounced random drug & alcohol testing. Alcohol testing is administered just prior to, during or just after performing safety-sensitive functions. Depending on the industry specific regulations, you may only be subject to random drug testing.<sup>7</sup>

No manager, supervisor, official or agent may select you for testing just because they want to. Under DOT regulations, employers must use a truly random selection process. Each employee must have an equal chance to be selected and tested.

Just prior to the testing event, you will be notified of your selection and provided enough time to stop performing your safety sensitive function and report to the testing location. Failure to show for a test or interfering with the testing process can be considered a refusal.

### **Post-Accident**

If you are involved in an event (accident, crash, etc.) meeting certain criteria of the DOT agency, a post-accident test will be required. You will then have to take a drug test and an alcohol test.<sup>8</sup> You are required to remain available for this testing and are not permitted to refuse testing.

 **Remember:** Safety-sensitive employees are obligated by law to submit to and cooperate in drug & alcohol testing mandated by DOT regulations.

### **Return to Duty**

If you have violated the prohibited drug & alcohol rules, you are required to take a drug and/or alcohol test before returning to safety-sensitive functions for any DOT regulated employer. You are subject to unannounced follow-up testing at least 6 times in the first 12 months following your return to active safety-sensitive service. Return-to-duty tests must be conducted under direct observation.

### **Follow-up**

The amount of follow-up testing you receive is determined by a Substance Abuse Professional (SAP) and may continue for up to 5 years. This means the SAP will determine how many times you will be tested (at least 6 times in the first year), for how long, and for what substance (i.e. drugs, alcohol, or both). Your employer is responsible for ensuring that follow-up testing is conducted and completed. Follow-up testing is in addition to all other DOT required testing. All follow-up tests will be observed.

### ***How is a urine drug test administered?***

Regardless of the DOT agency requiring the drug test, the drug testing process always consists of three components:

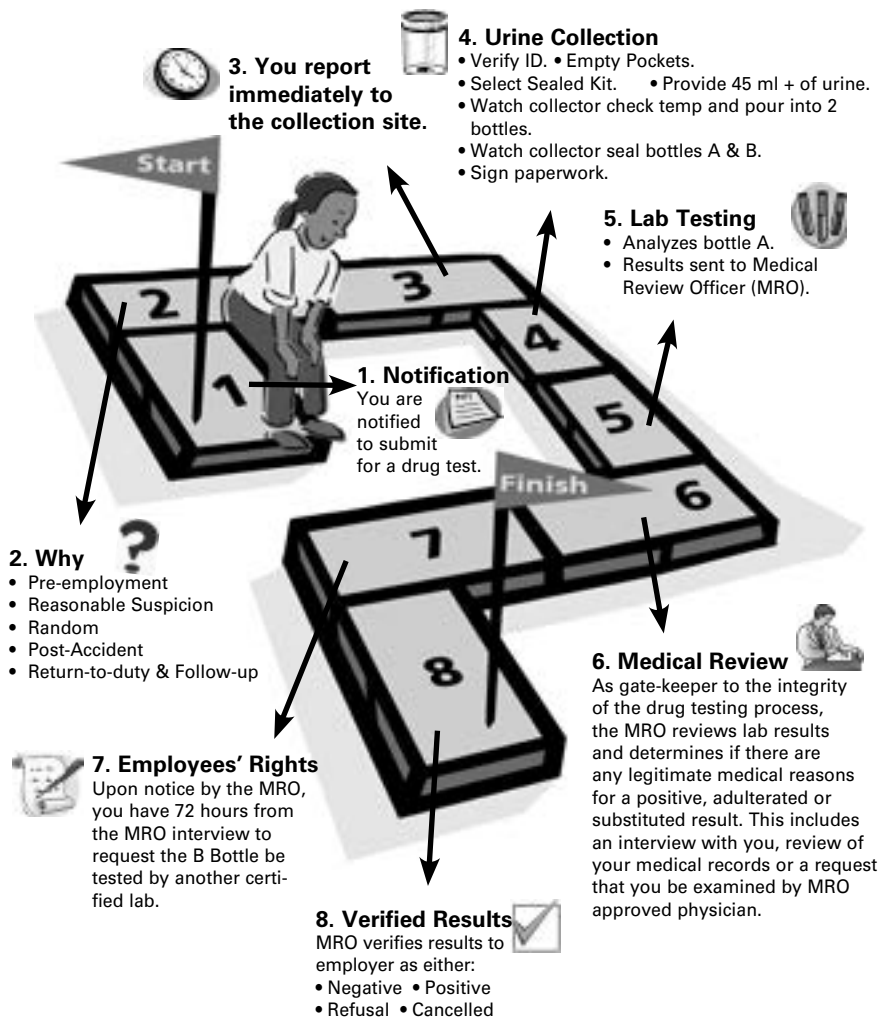
- The Collection. (49 CFR Part 40, Subparts C, D, E)
- Testing at the Laboratory. (49 CFR Part 40, Subpart F)
- Review by the Medical Review Officer. (49 CFR Part 40, Subpart G)

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<sup>7</sup> USCG & PHMSA do not perform random alcohol tests.

<sup>8</sup> In post-accident testing, the FRA requires a blood specimen for drug testing.

## Overview of DOT Drug Testing




What follows is a summary of the procedures for each step. For a more detailed account, please visit 49 CFR Part 40, which can be found in its entirety at [www.transportation.gov/odapc](http://www.transportation.gov/odapc).

### The Collection

During the collection process, a urine specimen collector will:

- Verify your identity using a current valid photo ID, such as driver's license, passport, employer issued picture ID, etc.
- Create a secure collection site by:
  - Restricting access to the site to only those being tested.
  - Securing all water sources and placing blue dye in any standing water.
  - Removing or securing all cleaning products/fluids at the collection site.
- Afford you privacy to provide a urine specimen.
  - Exceptions to the rule generally surround issues of attempted adulteration or substitution of a specimen or any situation where general questions of validity arise, like an unusual temperature.
- Ask you to remove any unnecessary garments and empty your pockets (you may retain your wallet).
- Instruct you to wash and dry your hands.
- Select or have you select a sealed collection kit and open it in your presence.
- Request you to provide a specimen (a minimum of 45 mL) of your urine into a collection container.
- Check the temperature and color of the urine.
- In your presence, pour the urine into two separate bottles (A or primary and B or split), seal them with tamper-evident tape, and then ask you to sign the seals after they have been placed on the bottles.

 **Remember:** Neither you nor the collector should let the specimen out of your sight until it has been poured into two separate bottles and sealed.

- Ask you to provide your name, date of birth, and daytime and evening phone numbers on the Medical Review Officer Copy (Copy #2) of the Federal Drug Testing Custody and Control Form (CCF).
  - This is so the Medical Review Officer (MRO) can contact you directly if there are any questions about your test.
- Complete necessary documentation on the "Test Facility Copy" (Copy #1) of the CCF to demonstrate the chain of custody (i.e. handling) of the specimen.
- Give you the Employee Copy (Copy # 5) of the CCF and may suggest you list any prescription and over-the-counter medications you may be taking on the back of your copy of the CCF (this may serve as a reminder for you in the event the MRO calls you to discuss your test results).
- Package and ship both sealed bottles and completed CCF to a U.S. Health and Human Services (HHS) certified testing laboratory as quickly as possible.

If you are unable to provide 45 mL of urine on the first attempt, the time will be noted, and you will be:

- Required to remain in the testing area under the supervision of the collection site personnel, their supervisor, or a representative from your company,
  - Leaving the testing area without authorization may be considered a refusal to test
- Urged to drink up to 40 oz. of fluid, distributed reasonably over a period of up to three hours,

- Asked to provide a new specimen (into a new collection container).
- If you do not provide a sufficient specimen within three hours, you must obtain a medical evaluation<sup>9</sup> within five days to determine if there is an acceptable medical reason for not being able to provide a specimen. If it is determined that there is no legitimate physiological or pre-existing psychological reason for not providing a urine specimen, it will be considered a refusal to test.


**How do you know if you are taking a federal or a private company drug test?**

All DOT drug tests are completed using the Federal Drug Testing Custody and Control Form. Those words appear at the top of each form.

**Testing at the Laboratory**

At the laboratory, the staff will:

- Determine if flaws exist. If flaws exist, the specimen is rejected for testing.
- Open only the A bottle and conduct a screening test. Specimens that screen positive will be analyzed again using a completely different testing methodology.
  - If the specimen tests negative in either test, the result will be reported as a negative.
  - Only if the specimen tests positive under both methods will the specimen be reported to the medical review officer as a positive test.
- Report the findings of the analysis of the A bottle to the Medical Review Officer (MRO).
- Store the A and B bottles for any reported positive, adulterated, or substituted result for at least 12 months.

 **Remember:** The Lab will conduct specimen validity tests (SVTs) to determine if the specimen was adulterated or substituted. Tests found to be adulterated or substituted are also reported to the MRO and may be considered a refusal to test.

**Review by the Medical Review Officer (MRO)**

Upon receipt of the test result from the laboratory, the MRO will:

- Review paperwork for accuracy.
- Report a negative result to the Designated Employer Representative (DER).
- If the result is positive, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as negative. If not, the MRO will report the result to the DER as positive.
- If the result is an adulterated or substituted test, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as cancelled. If not, the MRO will report the result to the DER as a refusal.
- Report a non-negative test result to the DER if:
  - You refused to discuss the results with the MRO;
  - You did not provide the MRO with acceptable medical documentation to explain the non-negative test result.

<sup>9</sup> The physical exam is scheduled after the designated employer representative consults with the medical review officer. The physician chosen to complete the evaluation must have expertise in the medical issues raised and be acceptable to the Medical Review Officer.

- Inform you that you have 72 hours from the time of the verified result to request to have your B “split” bottle sent to another certified lab for analysis for the same substance or condition that was found in the A “primary” bottle.

***If I disclose my prescribed medication use/medical information to the MRO during my interview, will the MRO report that information to a third party?***

The DOT’s regulation requires the MRO to report your medication use/medical information to a third party (e.g. your employer, health care provider responsible for your medical qualifications, etc.), if the MRO determines in his/her reasonable medical judgement that you may be medically unqualified according to DOT Agency regulations, or if your continued performance is likely to pose a significant safety risk. The MRO may report this information even if the MRO verifies your drug test result as ‘negative’.

Prior to the MRO reporting your information to a third party you will have up to five days to have your prescribing physician contact the MRO. You are responsible for facilitating the contact between the MRO and your prescribing physician. Your prescribing physician should be willing to state to the MRO that you can safely perform your safety-sensitive functions while taking the medication(s), or consider changing your medication to one that does not make you medically unqualified or does not pose a significant safety risk.

***What are Medical Review Officers (MROs)?***

Under DOT regulations, MROs are licensed physicians with knowledge and clinical experience in substance abuse disorders. They must also complete qualification training courses and fulfill obligations for continuing education courses. They serve as independent, impartial gatekeepers to the accuracy and integrity of the DOT drug testing program. All laboratory results are sent to an MRO for verification before a company is informed of the result. As a safeguard to quality and accuracy, the MRO reviews each test and rules out any other legitimate medical explanation before verifying the results as positive, adulterated or substituted.

***How is an alcohol test administered?***

The DOT performs alcohol testing in a manner to ensure the validity of the testing as well as provide confidentiality of the employee’s testing information.

**How do you know if you are taking a federal or a private company alcohol test?**

All DOT alcohol tests are documented with a form with the words Department of Transportation at the top.

At the start of the test, a Screening Test Technician (STT) or a Breath Alcohol Technician (BAT), using only a DOT-approved device, will:

- Establish a private testing area to prevent unauthorized people from hearing or seeing your test result.
- Require you to sign Step #2 of the Alcohol Testing Form (ATF).
- Perform a screening test and show you the test result. If the screening test result is an alcohol concentration of less than 0.02, no further testing is authorized, and there is no DOT action to be taken. The technician will document the result on the ATF, provide you a copy and provide your employer a copy.



If the screening test result is 0.02 or greater, you will be required to take a confirmation test, which can only be administered by BAT using an Evidential Breath Testing (EBT) device. The BAT will:

- Wait at least 15 minutes, but not more than 30 minutes, before conducting the confirmation test. During that time, you are not allowed to eat, drink, smoke, belch, put anything in you mouth or leave the testing area.



**Remember:** Leaving the testing area without authorization may be considered a refusal to test.

- Perform an “air blank” (which must read 0.00) on the EBT device to ensure that there is no residual alcohol in the EBT or in the air around it.
- Perform a confirmation test using a new mouthpiece.
- Display the test result to you on the EBT and on the printout from the EBT.
- Document the confirmation test result on the ATF, provide you a copy and provide your employer a copy.
- Report any result of 0.02 or greater immediately to the employer.

If after several attempts you are unable to provide an adequate amount of breath, the testing will be stopped. You will be instructed to take a medical evaluation to determine if there is an acceptable medical reason for not providing a sample. If it is determined that there is no legitimate physiological or psychological reason, the test will be treated as a refusal to test.

| Confirmation test results are the final outcome of the test. |   |
|--|---|
| Result   | Action  |
| Less than 0.02   | No action required under 49 CFR Part 40.  |
| 0.02 – 0.039   | Varies among DOT agencies. For example, FMCSA requires that you not resume safety-sensitive functions for 24 hours [382.505], while the FRA requires 8 hours [219.101(a)(4)]. The FTA & PHMSA require only that you test below 0.02 or cannot work until the next scheduled duty period but not less than 8 hours from the time of the test [655.35 & 199.237 respectively]. And, the FAA requires only that you test below 0.02, if the employer wants to put you back to work within 8 hours [14 CFR Part 120, Subpart F, 120.217(g)]. Also, be sure to check other agency specific regulations for their restrictions. |
| 0.04 or greater  | Immediate removal from safety-sensitive functions. You may not resume safety-sensitive functions until you successfully complete the return-to-duty process.  |

***Should I refuse a test if I believe I was unfairly selected for testing?***

**Rule of Thumb:** Comply then make a timely complaint.

If you are instructed to submit to a DOT drug or alcohol test and you don't agree with the reason or rationale for the test, take the test anyway. Don't interfere with the testing process or refuse the test.

After the test, express your concerns to your employer through a letter to your company's dispute resolution office, by following an agreed upon labor grievance or other company procedures. You can also express your concerns to the

appropriate DOT agency drug & alcohol program office. (See contact numbers listed in the Appendix.) Whomever you decide to contact, please contact them as soon as possible after the test.

### ***What is considered a refusal to test?***

DOT regulations prohibit you from refusing a test. The following are some examples of conduct that the regulations define as refusing a test (See 49 CFR Part 40 Subpart I & Subpart N):

#### **Drug Testing:**

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide a urine sample for any test required by federal regulations.
- Failure to permit the observation or monitoring of you providing a urine sample (Please note tests conducted under direct observation or monitoring occur in limited situations. The majority of specimens are provided in private).
- Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to take a second test when directed to do so.
- Failure to undergo a medical evaluation as part of “shy bladder” procedures.
- Providing a specimen that is verified as adulterated or substituted.
- Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- Failure to follow the observer’s instructions [during a direct observation collection] to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- Admit to the collector or MRO that you adulterated or substituted the specimen.

#### **Alcohol Testing:**

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to sign Step #2 of the ATF
- Failure to provide a breath sample for any test required by federal regulations.
- Failure to provide a sufficient breath sample when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to undergo a medical evaluation as part of “shy lung” procedures.
- Failure to cooperate with any part of the testing process.

### ***What happens if I test positive, refuse a test, or violate an agency-specific drug & alcohol rule?***

If you test positive, refuse a test, or violate DOT drug & alcohol rules:

- A supervisor or company official will immediately remove you from DOT-regulated safety-sensitive functions.

- You will not be permitted to return to performing DOT regulated safety-sensitive duties until you have:
  - Undergone an evaluation by a Substance Abuse Professional (SAP);
  - Successfully completed any education, counseling or treatment prescribed by the SAP prior to returning to service; and
  - Provided a negative test result for drugs and/or a test result of less than 0.02 for alcohol. (Return to duty testing).
- Upon return to a safety-sensitive job, you will be subject to unannounced testing for drugs and/or alcohol no less than 6 times during the first 12 months of active service with the possibility of unannounced testing for up to 60 months (as prescribed by the SAP). These tests (including the return-to-duty test) will be directly observed.

### ***What are Substance Abuse Professionals (SAPs)?***

Under DOT regulations, SAPs are Substance Abuse Professionals. They play a critical role in the work place testing program by professionally evaluating employees who have violated DOT drug & alcohol rules. SAPs recommend appropriate education, treatment, follow-up tests, and aftercare. They are the gate-keepers to the re-entry program by determining when a safety-sensitive employee can be returned to duty.

SAPs are required to have a certain background and credentials, which include clinical experience in diagnosis and treatment of substance abuse-related disorders. They must also complete qualification training and fulfill obligations for continuing education courses. While SAPs do make recommendations to the employer about an employee's readiness to perform safety-sensitive duties, SAPs are neither an advocate for the employee or the employer, and they make return-to-duty recommendations according to their professional and ethical standards as well as DOT's regulations.

**Remember:** Even if a SAP believes that you are ready to return to work, an employer is under no obligation to return you to work. Under the regulations, hiring and reinstatement decisions are left to the employer. Also, under FAA regulations, SAPs cannot return a pilot to duty without the prior approval of the FAA's Federal Air Surgeon.

### ***How do I find a SAP?***

If you violate a DOT drug or alcohol rule, your employer is required to provide you with a list of SAPs' names, addresses, and phone numbers that are available to you and acceptable to them.<sup>10</sup> This is true even if your employer terminates your employment.

### ***Will I lose my job if I violate drug & alcohol regulations?***

DOT regulations do not address employment actions such as hiring, firing or granting leaves of absence. All employment decisions are the responsibility of the employers. Under Federal regulations, the main requirement for employers is to immediately remove employees from performing DOT safety-sensitive jobs. Be aware that a positive or refused DOT drug or alcohol test may trigger additional consequences based on company policy or employment agreement.

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<sup>10</sup> Employers cannot charge employees for the SAP list.

While you may not lose your job, you may lose your certification or license to perform that job. Be sure to check industry specific regulations. For example, someone operating a commercial motor vehicle may not lose their state-issued CDL, but they will lose their ability to perform any DOT regulated safety-sensitive tasks.

### ***Will my results be confidential?***

Your test results are confidential. An employer or service agent (e.g. testing laboratory, MRO or SAP) is not permitted to disclose your test results to outside parties without your written consent. But, your test information may be released (without your consent) in certain situations, such as: legal proceedings, grievances, or administrative proceedings brought by you or on your behalf, which resulted from a positive or refusal. When the information is released, the employer must notify you in writing of any information they released.

### ***Will the results follow me to different employers?***

Yes, your drug & alcohol testing history will follow you to your new employer, if that employer is regulated by a DOT agency. Employers are required by law to provide records of your drug & alcohol testing history to your new employer. This is to ensure that you have completed the return-to-duty process and are being tested according to your follow-up testing plan.

### ***What should I do if I have a drug or alcohol abuse problem?***

Seek help. Jobs performed by safety-sensitive transportation employees keep America's people and economy moving. Your work is a vital part of everyday life. Yet, by abusing drugs or alcohol, you risk your own life, your co-workers lives and the lives of the public.

Most every community in the country has resources available to confidentially assist you through the evaluation and treatment of your problem. If you would like to find a treatment facility close to you, check with your local yellow pages, local health department or visit the U.S. Department of Health and Human Services treatment facility locator at <http://findtreatment.samhsa.gov/>. This site provides contact information for substance abuse treatment programs by state, city and U.S. Territory.

Also, many work-place programs are in place to assist employees and family members with substance abuse, mental health and other problems that affect their job performance. While they may vary by industry, here is an overview of programs that may be available to you:

#### **Employee Assistance Programs (EAPs)**

While not required by DOT agency regulations, EAPs may be available to employees as a matter of company policy. EAPs are generally provided by employers or unions.



**Note:** Many employees believe they only need to contact an EAP counselor if they have a positive drug and/or alcohol test. Not true!


EAP programs vary considerably in design and scope. Some focus only on substance abuse problems; others undertake a broad brush approach to a range

of employee and family problems. Some include prevention, health and wellness activities. Some are linked to the employee health benefit structures. These programs offer nearly full privacy and confidentiality, unless someone's life is in danger.

Do you know what programs are available at your job? Be sure to ask your employer!

### **Voluntary Referral Programs**

Often sponsored by employers or unions, referral programs provide an opportunity to self-report to your employer a substance abuse problem before you violate testing rules. This gives you an opportunity for evaluation and treatment, while at times guaranteeing your job. Be sure to check your company to see if there is a voluntary referral program.

 **Remember:** Self-reporting just after being notified of a test does not release you from your responsibility of taking the test, and it also does not qualify as a voluntary referral.

### **Peer Reporting Programs**

Generally sponsored by employers or unions, you are encouraged or required to identify co-workers with substance abuse problems. The safety of everyone depends on it. Using peers to convince troubled friends and co-workers with a problem is one of the strengths of the program, often guaranteeing the co-worker struggling with substance abuse issues the same benefits as if he had self-reported.


### **Education and Training Programs (required by all Agencies)**

Topics may include the effects of drugs & alcohol use, company testing policies, DOT testing regulations and the consequences of a positive test. Materials may also contain information on how employees can get in touch with their Employee Assistance Programs and community service hot-lines.

In addition, supervisors sometimes receive additional training in the identification and documentation of signs and symptoms of employee's drug and/or alcohol use that trigger a reasonable suspicion drug or alcohol test.

### ***Did you know?***

Did you know that 6 out of 10 people suffering from substance abuse problems also suffer from mental conditions like depression?<sup>11</sup> Research has long documented that people suffering from depression try to self-medicate themselves through alcohol and other drugs. Typically, many of these individuals fail to remain clean and sober after rehabilitation because their underlying medical problem is not addressed and the cycle of self-medication begins again.

 **Remember:** If you have substance abuse issues, there is a 60% chance that you are also suffering from an underlying mental condition like depression.

Increase your chances of rehabilitation. Be sure to ask your doctor or other mental health professionals about depression as it relates to substance abuse issues.

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<sup>11</sup> The Dual Challenge of Substance Abuse and Mental Disorders, NIDA Director Nora D. Volkow, M.D., NIDA Notes, Vol. 18, No. 5.

***But, I have more questions?***

ODAPC is available to help answer anyone's questions regarding DOT drug & alcohol testing regulations. Please contact us at 202-366-DRUG (3784) or visit our website at [www.transportation.gov/odapc](http://www.transportation.gov/odapc) for frequently asked questions, official interpretations of the regulations and regulatory guidelines.

If you have questions regarding DOT agency regulations on a specific industry, contact the agencies drug & alcohol abatement offices listed in the Appendix.

**Appendix**

**Drug & Alcohol Program Manager Contact Information**

**U.S. Department of Transportation**

|       |                       |                |  |
|-------|-----------------------|----------------|--|
| FAA   | Aviation              | (202) 267-8442 | <a href="http://www.faa.gov">www.faa.gov</a>                     |
| FMCSA | Motor Carrier         | (202) 366-2096 | <a href="http://www.fmcsa.dot.gov">www.fmcsa.dot.gov</a>         |
| FTA   | Public Transportation | (617) 494-2395 | <a href="http://www.transit.dot.gov">www.transit.dot.gov</a>     |
| FRA   | Railroads             | (202) 493-6313 | <a href="http://www.railroads.dot.gov">www.railroads.dot.gov</a> |
| PHMSA | Pipeline              | (909) 937-7232 | <a href="http://www.phmsa.dot.gov">www.phmsa.dot.gov</a>         |

**U.S. Department of Homeland Security**

|      |          |                |   |
|------|----------|----------------|---|
| USCG | Maritime | (202) 372-1033 | <a href="http://www.uscg.mil">http://www.uscg.mil</a> |
|------|----------|----------------|---|

**Notes**

Changes from previous version [April 2014]:

- **Inside Front Cover:** Removed room number from office address and paragraph on 'electronic access to publication'
- **Page iv:** Added text "This page intentionally left blank"
- **Page v:** Added text to various section headings to match those in booklet and updated pagination
- **Page 1:** Added/updated text to FAA, PHMSA, FRA and FTA sections of the table
- **Page 3:** Updated list of drugs for which DOT tests
- **Page 3:** Added/removed web resources on 'effects of drugs' and 'where to dispose of unused medicines'
- **Page 4:** Updated footnote #5 to clearly state that State allowance of marijuana is not recognized
- **Page 7:** 11th bullet under 'The Collection' heading, replaced text 'Laboratory Copy' with 'Test Facility Copy'
- **Page 9:** Added new question and answer: "If I disclose my prescribed medication use/medical information to the MRO during my interview, will the MRO report that information to a third party?"
- **Page 11:** Reformatted refusal section into "Drug Testing" and "Alcohol Testing" sections
- **Page 15:** Appendix: In the Drug & Alcohol Program Manager Contact Information section, updated PHMSA's telephone number and updated FTA, FRA, and USCG's web addresses
- **Page 15:** Removed ODAPC contact information because it is on the inside cover of this publication
- **Inside Back Cover:** Added section to list text changes from previous version
- **Back Cover:** Changed revision date from 'April 2014' to 'March 2019'
- Updated various web site addresses/hyperlinks throughout the document, and reformatted pages as needed





U.S. Department  
of Transportation

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## City Council Agenda Bill City of Kenmore, WA

|  |  |  |                           |                                     |            |                                   |                     |                                      |         |                                  |                 |
|--|--|--|---------------------------|-------------------------------------|------------|-----------------------------------|---------------------|--------------------------------------|---------|----------------------------------|-----------------|
| <b>Subject/Topic:</b><br><br>Personnel Policies Manual Comprehensive Update.   | <b>For Council Meeting Agenda of:</b> May 8, 2023<br><br><b>Department:</b> City Manager's Office<br><br><b>Prepared by:</b> Rob Karlinsey, City Manager<br><br><table><tr><td></td><td><b>Initial &amp; Date</b></td></tr><tr><td><b>Approved by Department Head:</b></td><td><u>RGK</u></td></tr><tr><td><b>Approved by City Attorney:</b></td><td><u>DR via email</u></td></tr><tr><td><b>Approved by Finance Director:</b></td><td><u></u></td></tr><tr><td><b>Approved by City Manager:</b></td><td><u>RGK 4/26</u></td></tr></table> |  | <b>Initial &amp; Date</b> | <b>Approved by Department Head:</b> | <u>RGK</u> | <b>Approved by City Attorney:</b> | <u>DR via email</u> | <b>Approved by Finance Director:</b> | <u></u> | <b>Approved by City Manager:</b> | <u>RGK 4/26</u> |
|  | <b>Initial &amp; Date</b>  |  |                           |                                     |            |                                   |                     |                                      |         |                                  |                 |
| <b>Approved by Department Head:</b>  | <u>RGK</u>   |  |                           |                                     |            |                                   |                     |                                      |         |                                  |                 |
| <b>Approved by City Attorney:</b>  | <u>DR via email</u>  |  |                           |                                     |            |                                   |                     |                                      |         |                                  |                 |
| <b>Approved by Finance Director:</b>   | <u></u>  |  |                           |                                     |            |                                   |                     |                                      |         |                                  |                 |
| <b>Approved by City Manager:</b>   | <u>RGK 4/26</u>  |  |                           |                                     |            |                                   |                     |                                      |         |                                  |                 |
| <b>Proposed Council Action/Motion:</b><br><br>No formal action this evening. Review and discuss the proposed revisions to the Personnel Policies Manual and provide direction to the City Manager.   | <b>Exhibits/Attachments:</b><br>1. Resolution 23-398 Adopting the Personnel Policies Manual as Exhibit A to the Resolution<br>2. Comparison of Several Compensation Policies Among Neighboring Cities (this comparison was conducted by several City maintenance workers)  |  |                           |                                     |            |                                   |                     |                                      |         |                                  |                 |
| <b>Summary:</b><br><br>The Personnel Policies Manual is a very important document for the internal workings of the City organization. It provides rules and policies on employment practices, employee pay and benefits, and employee responsibilities and conduct.<br><br>While the Personnel Policies Manual has received periodic updates over the years to stay current with changes in the law, the Manual has not seen a comprehensive review in over 20 years (perhaps not since incorporation in 1998). It is important to periodically revise this document as our organization, laws, and the world around us change.<br><br>Most of the Personnel Policies Manual is administrative in nature and falls under the authority of the City Manager. However, significant portions of the Personnel Policies Manual having to do with compensation and benefits need to be approved by the City Council. In particular, the City Manager seeks Council direction and consideration for the following proposed compensation-related amendments: <ul style="list-style-type: none"><li>• 2.2.3 Calculation of Overtime: including leave in the calculation of 40 hours worked.</li><li>• 2.3.1 Compensatory Time – Increasing the comp time accrual limit per employee from 40 to 80.</li></ul> |  |  |                           |                                     |            |                                   |                     |                                      |         |                                  |                 |

- 2.6.2 Call Back – allow for minimum one hour if standby employee handles the call by phone or computer.
- 2.6.3 Standby Pay – Allow the City Manager to increase standby pay by up to the same percentage cost of living increase granted to employees.
- 2.6.3 Standby Vehicle Take Home – Give the City Manager authority to allow employees to take home a city vehicle while on standby duty.
- 2.6.4 Emergency standby pay - Allow City Manager to increase emergency standby pay by up to the same percentage cost of living increase granted to employees.
- 5.3.7 Dental Plan Premium: No longer require the employee to pay the \$2-\$4/mo. monthly premium difference between Dental Plan A and Dental Plan F.
- 5.5.2 Increase the dollar amounts for length of service awards
- 5.6.4 Business meeting allowance in lieu of submitting reimbursements
- 6.14.4 Holiday Overtime – Increasing compensation for hours worked on City holidays from holiday pay plus time-and-a-half to holiday pay plus double time.
- 8.11.5 Allowing the City Manager to increase the annual clothing and boot allowances by up to the same percentage as the cost of living allowance granted to City employees.
- 9.6 Severance Agreements. Authorizing the City Manager to enter into limited severance agreements.

The entire Personnel Policies Manual is being presented for City Council adoption as a whole because, while much of the content can be approved by the City Manager, City Council adoption sets the personnel policies more formally in place.

For this evening's discussion, Inslee Best Attorney Kathy Weber and City Manager Rob Karlinsey will present an overview of the proposed changes to the Personnel Policies Manual. The City Council will be asked to provide questions, discuss, and give direction.

Staff will incorporate changes as directed by the City Council and bring forward the resolution and accompanying Personnel Policies Manual for City Council approval on the consent agenda at the May 22, 2023 City Council meeting.

#### Information/Background:

The Personnel Policies Manual is a vital internal policy document that governs employment practices, employee responsibilities, and employee compensation and benefits. The Personnel Policies Manual applies only to City employees and does not apply to the City Council, City commissions and committees, or City volunteers.

A much-needed comprehensive review of the Personnel Policies Manual has been taking place over the last year. Inslee Best Attorney Kathy Weber has provided a substantial amount of new and revised

content that incorporates developments in case law and state and federal statutes. In addition, proposed changes in compensation-related policies are being proposed by the City Manager.

City employees have been given the opportunity to review the proposed revisions and provide input. The City Manager, with Attorney Kathy Weber, held three workshops in March for employees to ask questions, provide feedback, and propose additional changes. Many of the employees' suggested changes have been incorporated into this final draft.

Highlights of key proposed changes in the Personnel Policies Manual are described as follows—bolded amended sections need City Council direction:

1.1 Welcome Message – New section.

1.2 Public Service and Organizational Values – New section.

1.3 Form of Government – New section.

1.4 Purpose and Scope – Clarifying City Manager's role in interpreting and amending the policies.

1.6 Anti-Harassment – Revisions reflect the most current case law and best practices.

1.7 Disability Accommodation – New section.

1.8 Pregnancy and Breastfeeding Accommodations – New section.

1.9 Religious Accommodation – New section.

1.10 Definitions – New and revised definitions; removed one-size-fits-all definition of Immediate Family.

1.12 References – Broadening who can give references.

2.2.3 Calculation of Overtime: including leave in the calculation of 40 hours worked.

2.3.1 Compensatory Time – Increasing the accrual limit per employee from 40 to 80.

2.3.2 Compensatory Time – Removing the December 15 comp time expiration; thereby allowing unused comp time to be carried over. Also removing the 90-day time limit for comp time and replacing with "a reasonable time period."

2.4.3 Clarifying attendance expectations during inclement weather.

2.6 Call Back renamed to Emergencies. Revising/clarifying expectations in emergency and call back situations. Incorporating recent Council-approved revisions to Standby pay and expectations (2.6.3 and 2.6.4).

2.6.2 Call Back – Allow for minimum one hour if standby employee handles the call by phone or computer.

2.6.3 Standby Pay – Allow City Manager to increase standby pay by up to the same percentage cost of living increase granted to employees.

2.6.3 Standby Vehicle Take Home – Give the City Manager authority to allow employees to take home a city vehicle while on standby duty.

2.6.4 Emergency standby pay - Allow City Manager to increase emergency standby pay by up to the same percentage cost of living increase granted to employees.

Chapter 3 Recruiting—Various sections revised, including process, procedures, external and internal recruitments, and temporary hires.

3.6 Employment of Relatives (Nepotism) – Several updates. Included definition of “relatives” in 3.6.3.

Chapter 4 title changed from Compensation to Wages. New sections added, including Compensation Philosophy, Wage Ranges and Wage Plan (including how and when the wage plan gets updated), annual merit increases (and the criteria for determining the 0%-4% increase), Reclassifications, Promotions, Internal Equity Adjustments, Temporary Acting Supervisor Pay, Annual COLAs. Deleting Compensation Upon Death and replacing it with Compensation Upon Separation of Employment.

Chapter 5 – Benefits. No change in health and retirement benefits but editing for clarity. Incorporating the Wellness Program (5.4). Increasing the dollar amount for length of service awards (5.5). Adding Service Recognition Upon Separation and 5.6 Other Benefits (meals for special employee meetings and business meetings; incorporating the Coffee and Other Beverages Policy; and adding a business meeting allowance as well as a section on using City premises for recognition of birthdays or other personal milestones).

5.3.7 Dental Plan Premium: No longer require the employee to pay the \$2-\$4/mo. monthly premium difference between Dental Plan A and Dental Plan F.

5.5.2 Increase the dollar amounts for length of service awards.

5.6.4 Business meeting allowance in lieu of submitting reimbursements.

Chapter 6 Leaves of Absence and Time Off. Incorporating the Wellness Day Off. Clarifying (not changing) length of service requirement rates of vacation accruals (6.2.1).

6.3 Sick Leave: Updating with state-required Washington Paid Sick Leave and combining it with standard sick leave.

6.4 Incorporating the updated Leave Donation policy.

6.6 – 6.8 Adding, updating and coordinating FMLA, PFMLA, and Parental Leave (6.15). Adding 6.7 Pregnancy Disability Leave.

6.12 Revising and clarifying the Executive Leave policy.

6.13 Bereavement Leave. Included definition of “immediate family.”

6.14 Holidays – Incorporating Juneteenth and changing “Day After Thanksgiving” to “Native American Heritage Day.”

6.14.4 Holiday Overtime – Increasing from holiday pay plus time-and-a-half to holiday pay plus double time.

6.15 Revising Religious Holidays to be in compliance with state law.

6.17 New section for Leave for Domestic Violence Victims.

6.18 Incorporating the Wellness Day Off.

7.3.1 Increasing the tuition reimbursement annual limit amount from \$2,500 to \$5,000 and changing the voluntary separation tuition payback amount to 100% within year (was 80%) and 50% within two years (was 40%).

8.11 Safety – Incorporating the adopted uniform and footwear allowances.

8.12 Substance Abuse – Drug-Free Workplace replaced with 8.12 Substance Abuse.

8.11.5 Allowing the City Manager to increase the annual clothing and boot allowances by up to the same percentage as the cost of living allowance granted to City employees.

8.13 Commercial Driver’s Licenses – Updated to be in compliance with federal regulations.

8.14 Complaint Procedures – Several updates.

8.15 Reporting Improper Governmental Action and Protecting Employees Against Retaliation – Several updates.

8.16 Workplace Violence – New section.

8.17 Weapons Prohibited – New Section

Chapter 9 - Updates/revisions including Discipline, Termination, Pre-Termination Hearing, and Layoff.

9.6 Severance Agreements. Authorizing the City Manager to enter into limited severance agreements.

Appendices:

Acknowledgment and Disclaimer moved from the front to the back—now Appendix A.

Deleting Appendix A: Contact List

Deleting Appendix B: Travel Policies (not consistent with more recently adopted Travel Policies found in a separately adopted City Council resolution)

Deleting Appendix C: Request for Tuition Form (doesn’t belong in the Personnel Policies)

Appendix D now Appendix B: Drug and Alcohol Testing Policy for CDLs. Completely replaced with the federal manual.

### **Fiscal Consideration:**

A number of the proposed changes in the Personnel Policy Manual have financial impacts. These impacts are summarized in the following table:

| Policy Section | Proposed Change  | Estimated Cost Increase Over 12 Months |           | Notes  |
|----------------|--|--|-----------|--|
|                |  | Likely                                 | High End  |  |
| 2.2.3          | Including leave in the calculation of 40 hours worked for overtime                 | 1,223                                  | 2,000     |  |
| 2.6.2          | One hour minimum if call out handled by phone or computer                          | 400                                    | 2,080     |  |
| 2.6.3          | Increasing standby daily rate annually by cost of living                           | 963                                    | 963       | will increase by this amount yearly, compounding |
| 2.6.4          | Increasing emergency standby rate annually by cost of living                       | 273                                    | 273       | will increase by this amount yearly, compounding |
| 2.6.3          | Take home vehicle for standby employees  | 9,943                                  | 12,900    | includes \$5k one-time cost                      |
| 5.3.7          | No longer have employees pay the \$2-4/mo. difference between Dental Plans A and F | 1,800                                  | 1,800     |  |
| 5.5.2          | Increase in length of service award amounts  | 500                                    | 500       |  |
| 5.6.4          | Business meeting allowance   | 2,400                                  | 4,800     |  |
| 6.14.4         | Double time overtime rate for required work on holidays                            | 2,560                                  | 2,560     |  |
| 7.3.1          | Increase in tuition reimbursement annual max allowance per employee                | 200                                    | 5,000     |  |
| 8.11.5         | Increasing uniform and boot allowance annually by cost of living                   | 690                                    | 690       | will increase by this amount yearly, compounding |
| Total          |  | \$ 20,952                              | \$ 33,566 |  |

Given the market support for a number of the proposed changes (see attachment 2) and their relative amount compared to the overall operating budget, the above financial impacts can be incorporated into the existing biennium budget. Cumulative impacts of these and other cost increases will need to be addressed in the next update to the Financial Sustainability Plan.

### **City Council Priority or Budget Objective Being Addressed:**

The Personnel Policies Manual supports all City Council priorities as well as the Kenmore 20-Year Vision Statement as adopted in the Comprehensive Plan on November 7, 2022.

**CITY OF KENMORE  
WASHINGTON  
RESOLUTION NO. 23-398**

**A RESOLUTION OF THE CITY COUNCIL OF KENMORE, WASHINGTON,  
REPEALING RESOLUTIONS 98-016, 16-288, 17-297, 18-313, 19-325, 19-  
333, 22-377, AND 22-379, ADOPTING A REVISED PERSONNEL POLICIES  
MANUAL, AND AUTHORIZING THE CITY MANAGER TO ADOPT AND  
AMEND PERSONNEL POLICIES.**

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WHEREAS, the City's Personnel Policies Manual is a vital internal policy document that governs employment practices, employee responsibilities, and employee compensation and benefits; and

WHEREAS, the City of Kenmore adopted its first personnel policies in Resolution 98-016 on August 31, 1998; and

WHEREAS, Resolution 98-016 authorized the City Manager to adopt and amend personnel policies within budget limitations; and

WHEREAS, over the last 25 years since the first adoption of the Personnel Policies, the City has amended the Personnel Policies from time to time in keeping with changes in case law and statutes as well as in response to changes in the needs of the City; and

WHEREAS, the Personnel Policies Manual applies only to City employees and does not apply to the City Council, City commissions and committees, or City volunteers; and

WHEREAS, it is necessary to periodically revise the Personnel Policies document as the City organization, laws, case law, and the world around us change; and

WHEREAS, a comprehensive review of the Personnel Policies Manual has been taking place over the last year, and as a result, many revisions and new sections are proposed; and

WHEREAS, the City Council desires to repeal Resolutions 98-016, 16-288, 17-297, 18-313, 19-325, 19-333, 22-377, and 22-379 and adopt an updated Personnel Policies Manual;

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

Section 1. Prior Personnel Policies Resolutions Repealed. Resolutions 98-016, 16-288, 17-297, 18-313, 19-325, 19-333, 22-377, and 22-379 are hereby repealed.

Section 2. Personnel Policies Adopted. The City Council adopts the Personnel Policies Manual as set forth on Exhibit A, attached hereto and incorporated by reference.



Section 3. Authority to Adopt/Amend. The City Council hereby authorizes the City Manager to continue to adopt and amend personnel policies, provided that the financial impacts of the amendments are within budget limitations.

Section 4. Severability. If any section, sentence, clause, or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this resolution.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON AT A REGULAR MEETING THEREOF THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

CITY OF KENMORE

\_\_\_\_\_  
Nigel Herbig, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Michelle Kang, Acting City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Dawn Reitan, City Attorney



# **City of Kenmore**

# **Personnel Policies Manual**

Updated: May 2023

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# 1 GENERAL PROVISIONS

## 1.1 Welcome Message

Congratulations on your employment as a City of Kenmore (“City”) employee. Every City employee is selected for the breadth of their job skills and experience as well as their positive approach to customer service. Each of us must be good not only at our own jobs, but also be able to help others be good at theirs. We select each City employee for their ability to enhance our team and their can-do approach to City services. While many of our employees provide direct services to residents, the City is, in part, a “contract city,” meaning other government agencies or private companies contract with the City to provide services that would be cost prohibitive or less effective for the City to offer on its own. We pride ourselves on selecting, training, and supporting a high quality, multi-talented, flexible, and customer service-oriented City staff. Welcome to the Kenmore Team!

## 1.2 Public Service and Organizational Values

1.2.1 Our employees have a passion for public service, to provide quality customer service both internally and externally. This means helping all visitors to City Hall and other City facilities feel welcome, answering customers’ questions and concerns in an efficient, respectful, and timely manner. It also means that we do our best to help each customer feel seen, heard, and understood, and it means following through to ensure that each inquiry and concern is addressed to the best of our ability. These customer service principles reflect our commitment to the Kenmore community and our Diversity, Equity, Inclusion, and Accessibility (DEIA) values. Our Customer Service Handbook discusses customer service in more detail.

1.2.2 Public service is important to all of us in our organization. We are here to transform the City Council’s vision and priorities into reality, to ensure tax dollars are spent prudently, and to help all residents and businesses thrive and find solutions to their problems. The City of Kenmore is a city of innovation; we recognize that there is always room for improvement and that effectively solving problems and improving quality of life requires flexibility and ingenuity. We have a growth mindset—we are willing to grow and learn from past experiences and those around us. We also have an outward mindset, meaning that our focus is

on lifting others. We are also committed to improving diversity, equity, inclusion, and accessibility for all people who live in, work in, or visit Kenmore.

- 1.2.3 In short, we are committed to creating a thriving community where all people love where they live, work, and play. More detail and instruction about the City's service vision, values, and organizational culture can be found in the City's Customer Service Handbook.

### **1.3 Form of Government**

Kenmore has a "Council-Manager" form of government. The residents elect the City Council at large. The City Council then elects from among its members a Mayor and Deputy Mayor to serve as Chair and Vice-Chair of the City Council. The City Council appoints the City Manager who acts as the City's Chief Executive Officer. All City employees work under the direction and supervision of the City Manager. An organizational chart summarizing City functions appears in the City's adopted budget.

### **1.4 Purpose and Scope**

- 1.4.1 The primary mission of every City employee is to provide courteous, orderly, efficient, and effective delivery of services to the residents, businesses, workers, and visitors of the City. This manual is a general informational guide to the City's current employment policies and shall not be construed as a contract. The City reserves the right to amend, delete, supplement, or rescind any of the provisions of this manual, as the City deems necessary and appropriate, without advance notice. These policies shall not be construed to create contractual rights or any type of promise or guarantee of specific treatment upon which any employee may rely.
- 1.4.2 The City Manager shall have the authority to exercise reasonable judgment and discretion in the interpretation and amending of these policies. The City Manager also has the right to deviate from these policies in individual situations when the City Manager, in the City Manager's sole discretion, determines that it is in the best interest of the City to do so, such as in emergency or other unique circumstances. City Council Resolution 98-016 authorizes the City Manager to adopt personnel policies and, from time to time, amend the same, provided the financial impact of the personnel policies are within budget limitations.

- 1.4.3 These personnel policies apply to all City employees. They do not apply to elected officials, members of appointed boards and commissions, or independent contractors.
- 1.4.4 The provisions of this personnel manual, as an informational document, are subject to more specific or conflicting provisions of written contracts such as collective bargaining agreements, contracts with other agencies, or individual contracts of employment. In the event of any conflict with City ordinance, state or federal law, rule, or regulation, the ordinance, statute, rule, or regulation shall prevail. These policies shall be interpreted to conform with ordinance and statute.
- 1.4.5 Employment with the City is at-will, which means that the employee or the City may terminate the employment relationship at any time, with or without notice, with or without cause. These policies do not modify in any way, the at-will status of the employment relationship between the City and its employees.
- 1.4.6 The only person authorized to enter into a collective bargaining agreement, contracts with other agencies, or individual contracts of employment is the City Manager, subject to City Council approval, where applicable. In order to be binding, all such contracts must be in writing and signed by both parties. The City Manager may delegate hiring authority; such hiring authority shall be given in writing.

## **1.5 Equal Employment Opportunity**

- 1.5.1 City is an equal employment opportunity employer. The City employs, retains, promotes, terminates, and otherwise treats all employees and job applicants on the basis of merit, qualifications, work ethic, and competence. City policies and practices shall be applied without regard to any individual's sex, race, color, religion, national origin, pregnancy, age, marital status, physical, mental, or sensory disability, sexual orientation, gender identity, or any other basis prohibited by local, state, or federal law.
- 1.5.2 The City will not discriminate against qualified applicants or employees with a sensory, physical, or mental impairment, unless the impairment cannot be reasonably accommodated and prevents proper performance of an essential function of the job.



- 1.5.3 The City complies with all applicable federal, state, and local laws that prohibit discrimination in employment. Any City employee who is found to have violated the City's policy against any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

## **1.6 Anti-Harassment**

- 1.6.1 The City is committed to providing a workplace that is free of verbal, physical, and visual forms of harassment so that everyone can work in a productive, respectful, and professional environment.
- 1.6.2
- 1.6.3 In keeping with this commitment, the City will not tolerate harassment of employees by anyone. Harassment in employment that is based on race, color, national origin, sex, religion, creed, marital or veteran's status, age, the presence of a physical, mental, or sensory disability, sexual orientation, gender identity, or any other basis prohibited by local, state, or federal laws is prohibited. The City does not tolerate harassment by anyone in the workplace—whether by supervisors, co-workers, or third parties such as vendors, contractors, or customers—nor does it consider conduct that violates this policy to fall within the course and scope of City employment or to be the direct consequence of the discharge of one's employment duties and responsibilities. Employees who violate this policy are subject to discipline, up to and including termination.
- 1.6.4 "Harassment" includes offensive and unwelcomed remarks, gestures, or physical contact; display or circulation of written or electronic materials or pictures; and/or jokes or slurs based on race, color, national origin, sex, religion, creed, marital or veteran's status, age, the presence of a physical, mental, or sensory disability, sexual orientation, gender identity, or any other basis prohibited by local, state, or federal laws.
- 1.6.5 "Sexual harassment" is generally defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which: (i) submission to such conduct is made either explicitly or implicitly a term or condition of employment and/or affects employment opportunities; or (ii) interferes with the employee's work or creates an offensive, intimidating, degrading, or hostile work environment.
- 1.6.6 Prohibited activity under this policy includes conduct carried out in person or by phone, computer systems, social media, email, and any other electronic means.

- 1.6.6 The City is committed to taking reasonable steps to prevent harassment from occurring and will take prompt and appropriate action when unlawful harassment is reported. To do this, however, the City needs the cooperation of all its employees, at all levels.
- 1.6.7 Employees should not tolerate inappropriate behavior. As an initial matter, they should consider making their feelings known to the offending employee. In many cases, if an employee makes their feelings known to the offending person(s), tells the offending person(s) that the conduct is not appropriate, and/or asks that the offending conduct be discontinued, this may resolve the situation. However, this is not a required step of the complaint resolution process with respect to reporting harassment, and if an employee is not comfortable doing this, the employee should proceed to the reporting process set forth in Section 1.6.8 below.
- 1.6.8 Any employee who experiences or witnesses conduct that the employee believes is harassing and/or has created a hostile or offensive place to work, should immediately notify their department director, the Human Resources Manager, the City Manager, or any other department director to whom the employee feels comfortable reporting. When possible, employees are required to report concerns about discrimination/harassment before behaviors become severe or pervasive, as the City prefers to stop discrimination/harassment before it rises to the level of a violation of the anti-discrimination and anti-harassment laws. Supervisors (of any level) who know about or receive reports of offending behavior shall promptly notify the Human Resources Manager. Complaints involving the Human Resources Manager should be referred to the City Manager; complaints involving the City Manager or City Council should be directed to the City Attorney.
- 1.6.9 The City will promptly and appropriately investigate all claims of harassment. Complaints will be handled with sensitivity, discretion, and confidentiality to the extent allowed by the circumstances and the law. Generally, this means that allegations of harassment are shared with those who have a need to know so that the City can conduct an effective investigation and take appropriate action to resolve the complaint. If, following the investigation, the City concludes that unlawful harassment or otherwise inappropriate conduct has occurred, prompt and effective remedial action will be taken. This may include discipline of the offending party and other actions to remedy the effects of the harassment and to prevent further harassment, as determined appropriate by the City.

- 1.6.10 The City will not retaliate against an employee who in good faith complains of harassment or otherwise assists in the investigation of such complaint, nor will it permit such retaliation. An employee who believes they have been retaliated against for having reported harassment or having participated in the investigation of a harassment complaint are urged to promptly notify the Human Resources Manager or the City Manager so that their concerns may be investigated (complaints about retaliation from the City Manager should be directed to the City Attorney). Claims of retaliatory activity will be treated as a separate violation of this policy and appropriate corrective measures will be taken if allegations of retaliation are substantiated. It is important to the City that an employee's concerns be thoroughly reviewed and investigated so that appropriate steps can be taken as necessary. It is the duty of each employee to assist in the maintenance of a discrimination-free workplace.

## **1.7 Disability Accommodation**

- 1.7.1 The City is committed to ensuring equal employment opportunity for qualified persons with disabilities in accordance with the Americans with Disabilities Act and other applicable federal, state, and local laws.
- 1.7.2 As provided by those laws, there are two sets of circumstances under which the City will make reasonable accommodation unless doing so would create an undue hardship for the City:
- An individual has a disability that substantially limits their ability to perform the essential functions of their job.
  - Working without accommodation would aggravate a disability such that it would create a substantially limiting effect in the future.

What constitutes a reasonable accommodation is decided on a case-by-case basis, depending upon the particular circumstances.

- 1.7.3 If an employee has a disability that requires a reasonable accommodation, the employee should notify the Human Resources Manager of the need for a disability accommodation. The City will treat such information as confidential and will share only on a "need to know basis" for purposes of evaluating an accommodation request. Employees are not required to disclose a disability unless they are seeking an accommodation.

- 1.7.4 In order to evaluate potential accommodations, the City may request a medical certification from the employee to verify the nature of the disability and related limitations or restrictions, to identify potential reasonable accommodations, and/or to determine whether continued work would pose a direct threat to the health or safety of the employee or others that cannot be eliminated by reasonable accommodation.

## **1.8 Pregnancy and Breastfeeding Accommodations**

- 1.8.1 The City will provide pregnant and nursing mothers reasonable accommodations for pregnancy and pregnancy-related health conditions, which include health conditions during pregnancy and after the birth of the baby, such as the need to express milk.

- 1.8.2 For pregnant employees, such accommodations may include the following:

- Providing frequent, longer, or flexible restroom breaks;
- Modifying any no food or drink policy;
- Providing seating or allowing the employee to sit more frequently; and
- Restrictions on lifting more than 17 pounds.

- 1.8.3 A pregnant employee, upon a medical certification from the employee's health care provider confirming the need for the same, may also be eligible for the following additional accommodation, provided that it does not represent a significant difficulty or expense to the City, which shall be determined by the City on a case-by-case basis, based upon the particular operational circumstances and position involved:

- Job restructuring, including modifying a work schedule, job reassignment, changing a work station, or providing equipment;
- Providing a temporary transfer to a less strenuous or hazardous position;
- Scheduling flexibility for prenatal visits; and
- Providing any further accommodations the employee may need.

- 1.8.4 The City will, for a period of two years following the birth of their child, provide a nursing employee with reasonable break time to express milk. These break times should, when possible, be taken concurrently with any other break time already provided. Employees should discuss the length and frequency of these breaks with their direct supervisor. The employee will also be provided a space to express breast milk, other than a restroom, that is shielded from view and free

from intrusion from co-workers and the public, provided such a location exists at the place of business or worksite. If the City does not have such a location, the City will work with the employee to identify a convenient location.

## **1.9 Religious Accommodation**

The City recognizes the diversity of religious beliefs and will reasonably accommodate the same. An employee may request an accommodation when their bona fide religious belief requires a deviation from the City's dress code or the individual's work schedule, basic job duties, or other aspects of employment. The City will consider the request but reserves the right to offer an alternative accommodation or to deny accommodation when such accommodation would create an undue hardship for the City. Some, but not all, of the factors to be considered in determining whether a religious accommodation may be reasonably extended to an employee include cost, the effect that an accommodation will have on current-established policies, and the burden on City operations.

## **1.10 Definitions**

- 1.10.1 **At-Will Employee.** An at-will employee is an employee who serves at the pleasure of the City Manager and who may be removed as provided in Section 9.2 of this manual. All regular and temporary employees are considered at-will.
- 1.10.2 **Contract Employee.** An employee who works under a written Employment Agreement which is authorized by the City and sets the terms and conditions of employment. Contract employees may have employment terms that differ from those policies set forth in this manual, as expressly set forth in the Employment Agreement.
- 1.10.3 **Exempt Employee.** An employee who is paid a fixed salary, which salary is not dependent upon the actual number of hours worked by that employee during the subject month, and who otherwise meets the criteria for exemption from federal and state overtime laws (typically, an executive, administrative, or professional employee).
- 1.10.4 **Non-Exempt Employee.** An employee who is subject to the federal and state overtime laws. Such employees are eligible for overtime as applicable by law or policy.

- 1.10.5 Department Director or Department Head. Includes employees whose positions have “Director” in the title; these positions typically report directly to the City Manager. The Deputy City Manager and Assistant City Manager positions are also included in this definition.
- 1.10.6 Regular Full-Time Employee. An employee, hired by the City for an indefinite duration, who has completed their Work Trial Period, and who is regularly scheduled to work a minimum of forty (40) hours a week on a continuing basis.
- 1.10.7 Regular Part-Time Employee. An employee, hired by the City for an indefinite duration, who works less than forty (40) but at least twenty (20) hours a week on a continuing basis, and is eligible for pro-rated City benefits. Employees working for the City less than twenty (20) hours per week on an ongoing basis are not eligible for health insurance or retirement benefits (unless otherwise required by law) but may receive other benefits (such as prorated paid leave) at the City Manager’s discretion.
- 1.10.8 Job-share Employee. An employee, hired by the City for an indefinite duration, who shares a position with another employee and where both individuals sharing the position work a combined total of forty (40) hours in a workweek on a continuing basis.
- 1.10.9 Temporary Employees. Temporary employees are defined as those employees who hold jobs of limited duration arising out of special projects, seasonal work, internships, abnormal or peak workloads, the need to fill a vacant position for a limited term, on an interim basis, or for emergency staffing needs. Temporary employees are eligible for Washington paid sick leave benefits and in limited circumstances may receive certain City benefits, consistent with applicable plans and City Manager approval.
- 1.10.10 Working Trial Period. A period of not less than six (6) months duration, which shall be established at the time employment is offered, during which time the performance of the employee will be monitored and evaluated in order to determine the employee's suitability for employment beyond the working trial period.

## **1.11 Employee Personnel Records**

- 1.11.1 The primary personnel file for each employee is kept in a secure location and access to such file is limited. This is the only official personnel record kept by

the City. An employee's personnel file contains the employee's name, title and/or position held, job description, offer of employment, department to which the employee is assigned, salary, original employment application, changes in employment status and compensation, training record, performance evaluations, personnel actions affecting the employee, including discipline, resumes, certifications, letters of commendation, and other pertinent information.

- 1.11.2 An employee's medical records shall be kept in a confidential, separate medical file. Access to this file is limited to those managers with a strict need-to-know basis, typically limited to the City Manager, Human Resources Manager, department director (as may be applicable under the particular circumstances), and the employee.
- 1.11.3 An employee has the right to review their file at least annually, during regular business hours. Employees wishing to view their file should contact the Human Resources Manager to schedule an appointment to do so. An employee may submit a request to the City Manager to remove irrelevant or erroneous information in their personnel file. If the City Manager denies the employee's request to remove the information, the employee may file a written rebuttal statement to be placed in the file.
- 1.11.4 Personnel files are kept confidential to the maximum extent permitted by law. Except for routine verifications of employment, no information from an employee's personnel file will be voluntarily released to the public, including the press, without a written request for specific information with appropriate justification and notification of the request to the employee. However, the City's release of such documents is also controlled by Washington state law, including the Public Records Act, Chapter 42.56 RCW (the "PRA"). Subject to certain limited exceptions, that law is required to be broadly interpreted in order to effectuate the release of public documents. The City retains final authority with respect to the disclosure of documents in response to a request submitted under the PRA.

## **1.12 References**

- 1.12.1 The City may give references for existing and former employees, provided the information given is limited to the employee's dates of employment, position(s) held, duties, skill level, and work-related performance.

- 1.12.2 If a City employee is asked to give a reference for a current or former employee, the employee should consult with the Human Resources Manager before providing the reference.



## 2 HOURS AND ATTENDANCE

### 2.1 Work Scheduling

- 2.1.1 The City's standard work week is Monday through Friday from 8:30 a.m. to 5:00 p.m. with a one-half hour unpaid lunch period, and such breaks as required by law. However, with department director approval, individual work schedules may vary from this standard work week, based on operational and/or staffing considerations or needs.
- 2.1.2 A normal work schedule for regular, full-time employees consists of forty (40) hours each work week. Different work schedules may be established by the City to meet job assignments and provide necessary City services, or to comply with State or Federal laws. Each employee's department director will provide direction to the employee regarding the employee's specific working hours.
- 2.1.3 Part-time, contract, and temporary employees will work hours as specified by their department directors.
- 2.1.4 Flexible work schedules and teleworking may be permitted by the department director, provided that such alternative work scheduling and/or teleworking is done in a manner that fully meets the needs and requirements of the City and is approved by the City Manager. The standard work week may be adjusted to accommodate adjusted work schedules. Prior to allowing flexible work schedules or teleworking arrangements, the City Manager will develop and approve corresponding administrative policies and procedures to enable the implementation thereof.
- 2.1.5 Exempt employees are expected to manage their workload and schedules to maintain a regular work routine. However, exempt employees may reasonably adjust their hours in a week or other period of time when workload demands irregular or excessive hours. Nevertheless, it is not uncommon or unexpected that exempt employees work more than forty hours in any given work week; therefore, exempt employees should not expect hour-for-hour flex time for longer work hours, especially given that they are eligible for Executive Leave in return for the expectation of working longer hours.
- 2.1.6 With prior supervisor approval, non-exempt full-time employees may "flex" their time, hour-for-hour within the same workweek, when work hours during the week

are irregular or exceed eight on a given day (or days) in that week, provided that combined total regular time and leave time (if any) equal forty hours. For example, if an employee is scheduled to work at a City event in the evening which would cause them to work a twelve-hour day, they can, with supervisor approval and subject to the customer service coverage needs of the City, start their workday four hours later that day (or shorten other workday(s) in that same week).

## **2.2 Hours of Work and Overtime**

- 2.2.1 All City positions are designated as either "exempt" or "non-exempt" according to the Fair Labor Standards Act ("FLSA") regulations and state law for purposes of overtime compensation.
- 2.2.2 The regular work week is forty (40) hours within a consecutive seven (7) day period, commencing Sunday at 12:00 a.m. and ending at 11:59 p.m. the following Saturday, unless the employee's work week has been otherwise specifically adjusted, with the City Manager's approval.
- 2.2.3 Non-exempt employees are entitled to overtime compensation at the rate of one-and-one-half (1.5) times the employee's regular rate of pay for all time worked by them which exceeds forty (40) hours in a work week. For the purpose of calculating overtime, "time worked" shall include paid leave.
- 2.2.4 All overtime must be authorized in advance by the employee's Department Director; failure to obtain overtime approval prior to working the overtime (except in cases of a bona fide emergency in which pre-approval is not possible) is grounds for disciplinary action, up to and including termination of employment.
- 2.2.5 Exempt employees are ineligible for overtime pay or compensatory time. However, in the event of a declared emergency, exempt personnel may be entitled to additional compensation (e.g., straight time as cash or compensatory time) when they work more than forty (40) hours during a regular workweek, but only when explicitly set forth and authorized in the City Manager's declaration of emergency or subsequent documents related to the declared emergency and approved in writing in advance by the City Manager.

## **2.3 Compensatory Time**

- 2.3.1 Regular non-exempt employees entitled to overtime pay may request to receive compensatory time off instead of cash payment for such overtime. This request

to receive compensatory time instead of cash payment is approved on a case-by-case basis by the employee's department director. If compensatory time is requested by the employee and approved by the department director, the employee is credited with one-and-one-half (1.5) times the hours worked as overtime. Maximum accruals of compensatory time shall be limited to eighty (80) hours for full-time employees (prorated for regular part-time employees). After the maximum compensatory time accrual is reached, overtime compensation shall be paid.

- 2.3.2 Employees may use compensatory time within a reasonable time after making a request to their department director, unless doing so would unduly disrupt City operations. Compensatory time should be used for short-term absences from work during times mutually agreed to by the employee and his/her department director. Accumulation of compensatory time to be used as a substitute for extended vacation time off is not normally permitted.
- 2.3.3 If an employee is unable to use accrued compensatory time within a reasonable time period, the employee will be paid their original overtime wage.
- 2.3.4 Exempt employees are not covered by the FLSA compensatory time provisions and are not eligible for compensatory time, except as allowed in Section 2.2.6. Temporary and seasonal employees shall not be eligible for compensatory time.

## **2.4 Attendance**

- 2.4.1 Punctual and consistent attendance is a condition of employment. Each supervisor is responsible for maintaining an accurate attendance record of their employees.
- 2.4.2 Employees unable to work or unable to report to work on time should notify their supervisor or department director as soon as possible, but no later than thirty (30) minutes before the employee's usual starting time, unless a bona fide emergency situation prevents the employee from providing such notification, in which case the notification should be provided as soon as reasonably possible. If an absence continues beyond one day, the employee is responsible for notifying the supervisor or department director each day (unless the employee has otherwise provided a medical certification in connection with such absence). If the supervisor is unavailable, the employee may leave a message for their supervisor, stating the reason for being late or unable to report for work.

- 2.4.3 Employees are expected to be at work during inclement weather, provided they can safely do so. Department directors may allow employees to be late or leave early during inclement weather conditions; department directors may also direct or allow employees who are already approved and set up for a teleworking arrangement to work from home during inclement weather. In particularly hazardous or severe weather conditions, the City Manager may, at their sole discretion, close City Hall, City offices, and non-emergency facilities and services and direct employees who are not responding to the inclement weather conditions not to come to work. In those situations, employees will be expected to work from home if they are set up and approved for a teleworking arrangement. All other employees may claim the day as an inclement weather day and be paid for a full day of work. If there is no direction from the City to stay home, arrive late, or leave early, non-attendance will be counted as absence from work and will be charged to accrued vacation time or compensatory time, or will otherwise be unpaid for non-exempt employees.
- 2.4.4 An employee who is absent without authorization or notification is subject to disciplinary action, including possible termination.

## **2.5 Breaks and Meal Periods**

Employees may take one (1) fifteen-minute paid break for every four hours worked. All breaks shall be arranged so that they do not interfere with City business or service to the public. Breaks cannot be used at the start or end of the day (or to shorten the workday). Meal periods shall be scheduled by the employee's supervisor or department director. The scheduling of meal periods may vary depending on department workload and coverage needed to serve the public. Meal periods are unpaid and are usually one-half hour to one hour in length. Longer meal periods may be approved by the supervisor on long workdays (such as City Council meeting days), provided that work and coverage is not disrupted, and the work of others is not negatively impacted.

## **2.6 Emergencies**

- 2.6.1 In the event of an emergency, the City must continue to provide essential public services. Therefore, employees must make every reasonable effort to report to work if they can do so without endangering their personal safety or the safety and/or health of co-workers and the public. During an emergency, the City Manager may modify work schedules, direct that staff work from alternate locations, telecommute, change methods of work, or take other appropriate

action to meet the needs of the organization, the City and to ensure that City-provided services are maintained.

During periods of emergency, employees may be given emergency services assignments and work schedules other than their normal work assignments, direct reports, and schedules. The City Manager may waive or modify City policy in light of the nature of the emergency.

In preparation for emergencies, employees are expected to complete the National Incident Management System training that is appropriate for their position. Employees are also expected to participate in emergency preparedness exercises and planning.

- 2.6.2    **Callback.** All employees are subject to callback in emergencies or as otherwise needed by the City to provide necessary services to the public. A refusal to respond to a callback is grounds for disciplinary action, up to and including possible termination. Non-exempt employees who are physically called back to duty will be paid the appropriate rate of pay for hours worked (including the overtime rate, if applicable), with a minimum three (3) hours callback pay. The callback shall begin at the time the employee is called back to work and shall end when the employee returns directly home from the work site. If the callback exceeds the three-hour minimum, the employee shall be paid the applicable rate of pay for the time actually worked by the employee. If an employee is called to work early or required to stay late, at the beginning or end of a shift, the employee shall not be entitled to the three (3) hour minimum, as long as such hours are contiguous with the employee's shift. For callback work that may be performed remotely via computer, phone, or other electronic means, employees shall be paid for the time actually spent on the remote work, with a minimum of one hour, provided, that multiple calls that may be handled remotely shall not each be subject to a one-hour minimum but shall be cumulative. To the extent that multiple remote calls exceed the one-hour minimum, the employee shall be paid only for the time actually worked on all such calls. Employees are responsible for accurately recording the duration of their callback computer usage, telephone calls, and/or other electronic usage for compensation purposes. All callback hours shall be paid the appropriate overtime rate, if applicable. Providing support to planned City events is not eligible for call-back pay.

- 2.6.3    **Stand-by Pay.** Stand-by time is not compensable time. However, an employee who is required to be on stand-by time and subject to callback shall receive a

stand-by allowance of fifty-five dollars (\$55) per day, while on stand-by. The City Manager may, at the City Manager's discretion, annually increase this stand-by pay daily rate by up to the same percentage as the annual cost-of-living wage increase granted to employees (see Section 4.3.8). Such increase, if given, shall be prospective and not retroactive. Only one employee at a time shall be designated as being on stand-by to receive this allowance, unless otherwise determined by the department head or City Manager. The department head or the City Manager will designate the stand-by employees. Employees on vacation, out on sick leave, or any other paid leave may receive the stand-by allowance if they can be available after working hours and comply with the conditions that follow in this section. While on stand-by, employees are required to carry a City cell phone at all times and be ready and able to promptly respond to calls. While on stand-by duty, employees are required to be within a one-hour driving distance of the City and must refrain from using alcohol and/or drugs, consistent with the City's Substance Abuse Policy 8.12. The City Manager, at the City Manager's discretion, may allow an employee on stand-by duty to take a City vehicle home to more quickly respond to calls while on stand-by duty. Such decision shall be based on the business needs of the City and the safety needs of the community. Such decision shall rely on relevant data such as callout frequency, distance, liability to the City, and improvements in response times. If the City Manager allows a take home vehicle for stand-by duty, the City Manager or designee will first develop and approve corresponding administrative policies and procedures to enable the implementation thereof.

- 2.6.4 **Emergency Stand-by Pay.** An employee who is required to be on emergency stand-by for inclement weather or other large-scale emergencies, as declared by the City Manager or the City Manager's designee, shall receive an emergency stand-by allowance of sixty-five dollars (\$65) per day while on emergency stand-by duty. The City Manager may, at the City Manager's discretion, annually increase this emergency stand-by pay daily rate by up to the same percentage as the annual cost-of-living wage increase granted to employees (see Section 4.3.8). Such increase, if given, shall be prospective and not retroactive. Multiple employees may be placed on emergency stand-by at one time. The department head or City Manager will designate emergency stand-by employees. If an employee is called back while on emergency stand-by, the call-back provisions of Section 2.6.1 (along with the general overtime policy set forth in Section 2.2.5 above) shall apply.

## **2.7 Payroll Records**

- 2.7.1 The official records are kept by the Finance and Administration Director, or designee.
- 2.7.2 Each employee is required to submit a biweekly work record (i.e., time sheet) which records the hours worked, overtime worked (if eligible), and any leave taken. Department directors or supervisors as designated by the department director will sign these work records. The City Manager will approve work records for exempt and non-exempt employees that directly report to the City Manager. Supervisors will delegate work record approval when they are not available.
- 2.7.3 By signing or electronically submitting the work record, the employee certifies that the information is true and correct. "Signing" a work record includes electronically submitting and also electronically approving the work record.

### **3 RECRUITING AND HIRING**

#### **3.1 Recruiting**

- 3.1.1 Recruiting is based entirely on ability, merit, qualifications, and competence, without regard to race, color, religion, national origin, sex, sexual orientation, gender identity or expression, marital status, pregnancy, physical handicap, disability, age, or any other basis protected by local, state, or federal law.
- 3.1.2 Each applicant shall complete and sign (or electronically submit) an application form prior to being considered for any position (except in circumstances such as an internal recruitment). Resumes may supplement, but typically do not replace, the City's official application. The application shall become a part of each employee's permanent personnel record. In some cases, such as an emergency hire or internal recruitment, the City may accept a resume in lieu of a completed application.
- 3.1.3 Any applicant supplying false or misleading information is subject to disqualification or immediate termination, if hired.
- 3.1.4 The City is committed to providing service to its residents through highly qualified personnel. The City typically conducts a competitive, open recruiting and selection process which encourages the participation of both current qualified City employees and applicants who are not currently employed by the City. In unique or exigent circumstances, the City Manager, at the City Manager's discretion, may forego a competitive recruitment process and directly hire a qualified candidate.

#### **3.2 Hiring**

- 3.2.1 When a position becomes vacant and prior to any posting or advertisement of the vacancy, the department director shall review the position, its job description, and the need for such a position. The department director will prepare and submit to the City Manager a written request to fill the position. The City Manager may choose to open a position recruitment to internal candidates (current City employees) only. When a position announcement is posted externally, it will also be announced internally to current City employees.
- 3.2.2 Residency within the City shall not be a condition of initial appointment or employment (the City Council may, however, require that the City Manager reside



in the City); provided, however, that an employee's selection of residence shall not interfere with the daily performance of the employee's duties and responsibilities.

- 3.2.3 Applicants for positions in which the applicant is expected to operate a motor vehicle must be at least 18 years old and will be required to present a valid Washington State driver's license with any necessary endorsements. Driving records of applicants may be checked. Applicants with poor driving records, as determined by the City, may be disqualified for employment with the City in positions requiring driving.
- 3.2.4 The City may administer pre-employment examinations to test the qualifications and ability of applicants, as determined necessary by the City. The City may contract with any competent agency or individual to prepare and/or administer examinations.
- 3.2.5 The City may, when it determines that there is a business necessity to do so based on the particular duties and responsibilities of the position, conduct a background check (including criminal and/or credit checks) on prospective applicants. Such checks will be performed in the later stages of the hiring process, typically when the final candidate(s) for the position has/have been selected. In certain cases, the City may retain a third party (such as a consumer reporting agency) to perform such background checks, in which case the agency shall provide the applicants with the notices and disclosures applicable to such checks.
- 3.2.6 After an offer of employment has been made and prior to commencement of employment, the City may require persons selected for safety-sensitive positions or positions with required physical requirements to successfully pass a functional assessment test and/or medical examination, which may include testing for alcohol and controlled substances. The purpose of the functional assessment test and/or examination is to determine if the individual is physically able to perform the job and to ensure his/her physical condition will not endanger the health, safety, or well-being of other employees or the public. The offer of employment may be conditioned on the results of the examination and/or functional assessment test.
- 3.2.7 A candidate may be disqualified from consideration if: (1) found physically and/or mentally disabled and unable to perform the essential duties of the

position, with or without reasonable accommodation; (2) when required pursuant to a bona fide occupational qualification the candidate refuses to submit to a post-offer medical examination or to complete medical history forms; or (3) if the employee's drug and alcohol test detects the presence of controlled substances and/or alcohol in the employee's system; (4) a reference check fails to confirm an individual's stated qualifications or a background check reveals information which indicates that an individual's prior performance, criminal record, or activities are incompatible with public employment. If an applicant is determined to be disqualified from further consideration based on a negative criminal history, the applicant will be given an opportunity to present any additional information or explanation that the applicant believes mitigates against such disqualification.

### **3.3 Temporary Employees**

- 3.3.1 With approval of the department director, temporary employees may be hired for internships, seasonal work, special projects, emergencies or other peak workload periods. Temporary employees may also be hired to temporarily replace regular employees absent due to disability, illness, vacation, or other approved leave, or to temporarily fill a vacancy until a regular employee is hired.
- 3.3.2 Temporary employees may be hired without competitive recruitment or examination. For example, returning seasonal employees may forego competitive recruitment.
- 3.3.3 Temporary employees are eligible for overtime pay and paid sick leave, as required by law. Temporary employees whose employment is expected to last less than one year are typically not eligible for City benefits unless otherwise required by law. The City Manager may but is not obligated to allow benefits (such as leave accruals, health insurance, retirement, etc.) for temporary employees who are expected to work for the City for more than one year and up to two years (provided they work the minimum number of hours to qualify for benefits and provided the rules of the benefit plans permit it).

### **3.4 Job-Share Employees**

- 3.4.1 Job sharing shall be implemented, and thereafter continued, only upon the approval of the supervisor and the department director of the relevant position(s), as well as the City Manager.

3.4.2 Schedule. Employees will share a full-time position on a half-time basis using a work schedule that is agreed upon by both the department director and the employees. Examples of schedules that may be used are:

- Each employee works four (4) hours per day.
- Each employee works forty (40) hours in alternating weeks.
- Each employee works twenty-four (24) hours one week and sixteen (16) hours the alternate week.
- Each employee works two and one-half (2 ½) days per week.
- The two employees' work schedule equals a combined forty (40) hours per week.

A regular work schedule shall be agreed upon by the employees and approved by the supervisor. Any alterations to the regular work schedule, both permanent and temporary, will be made in writing by both employees and must be approved by the supervisor prior to changes being implemented.

3.4.3 Coordination. The employees will be expected to coordinate with each other so that the responsibilities of the position, customer service, and the level of required productivity are not adversely affected.

3.4.4 Compensation. Each employee will be paid based on that individual's experience and qualifications and within the salary range (prorated) established for the position.

3.4.5 Benefits. Provided each job share employee works the minimum number of hours to qualify for benefits, and provided they are eligible under the applicable benefit plans, each job-share employee will be entitled to the following benefits:

- Vacation, sick leave, and holidays will be accumulated on a pro-rated basis (e.g., 50%);
- Medical, dental, vision insurance, and orthodontia coverage on a pro-rated basis (e.g., 50%);
- Life insurance and long-term disability paid for in full by the City.
- Participation in the State retirement program (PERS) and the City's Social Security Replacement Plan 401(a); and
- Participation in other employee programs, including but not limited to the Employee Wellness Program and Employee Assistance Program.

- 3.4.6 Within a reasonable margin as determined by the City Manager, benefit totals will not exceed the amount of the normal premiums paid by the City on behalf of a regular full-time employee.
- 3.4.7 Vacancy. In the case of a permanent vacancy of one of the job-share employees, the continuation of the job-share position will need to be re-evaluated by the supervisor and department director at that time. The other employee may have the option to work full-time or agree to another part-time work schedule that is approved by the supervisor and department director. The City may evaluate, at any time, the effectiveness of the job-share arrangement and convert the position back to a regular full-time position.

### **3.5 Work Trial Period**

- 3.5.1 All newly hired employees, former employees who have been rehired, and existing employees who have been promoted to a new classification enter a “work trial period” which is considered an integral part of the selection and evaluation process. During the work trial period an employee is required to demonstrate suitability for the position through actual work performance.
- 3.5.2 The normal work trial period is six (6) months from the employee’s date of hire, rehire, or promotion; however, longer periods may be established for positions requiring technical, professional, specialized, unusual, or unique skills or qualifications.
- 3.5.3 An employee’s work trial period may be extended for up to an additional six (6) months (when needed due to circumstances such as extended illness, a need to continue to evaluate marginal performance, or for any other purpose as deemed necessary by the employee’s supervisor) to properly evaluate the employee’s performance. A performance evaluation shall be conducted at the end of the first six months and another at the successful completion of any extended work trial period. The work trial period will not be shortened for any reason.
- 3.5.4 When a department director determines an employee has satisfactorily completed the work trial period, the department director should prepare a written performance evaluation, which will be reviewed by the City Manager. Satisfactory completion of the working test period is a positive sign that the employee’s performance is acceptable and that employment with the City beyond the working test period is probably appropriate; however, satisfactory performance during the working test period does not guarantee future performance, and

suitability for the job can be evaluated at any time. The employee should normally receive an annual evaluation one year after the hire date, which becomes the employee's anniversary date, and annually thereafter to determine the employee's suitability for appointment beyond the working trial period.

### **3.6 Employment of Relatives (Nepotism)**

- 3.6.1 Relatives of existing City Councilmembers will not be employed by the City.
- 3.6.2 Relatives of existing City employees, will not be employed by the City under any of the following circumstances:
- Where one of the parties would have authority (or practical power) or influence to supervise, appoint, remove, promote, increase or decrease compensation, or discipline the other;
  - Where one party would be responsible for auditing the work of the other;
  - Where both parties would report to the same immediate supervisor;
  - Where other circumstances might lead to potential conflict among the parties or conflict between the interest of one or both parties and the best interests of the City; or
  - Where, in order to avoid the reality or appearance of improper influence or favor, or to protect its confidentiality, the employer must limit the employment of close relatives of policy level officers of customers, competitors, regulatory agencies, or others with whom the employer deals.
- 3.6.3 For purposes of this Nepotism Policy, the term "relatives" includes persons who are related to a Councilmember or employee by blood or law, or whose relationship with the Councilmember or employee is similar to that of persons who are related by blood or law, including spouses, domestic partners (including persons cohabitating in a romantic relationship), parents, children, siblings, grandparents, grandchildren, aunts, uncles, nieces, nephews, and first cousins, and corresponding "in-law" and "step" relations.
- 3.6.4 If two employees marry, become related, or begin sharing living quarters with one another, and in the City's judgment, the potential conflicts noted above exist or reasonably could exist, only one of the employees will be permitted to continue employment with the City, unless reasonable accommodations, as determined by the City Manager or the City Manager's designee, can be made to eliminate the potential conflict(s). The decision as to which employee will remain with the City must be made by the two employees within thirty (30) calendar days of the

date they marry, become related, or begin sharing living quarters with each other. If no decision has been made during this time, the City Manager reserves the right to terminate either employee, based on the business needs of the City.

### **3.7 Promotions and Transfers**

- 3.7.1 The City encourages current City employees to apply for vacant City positions for which they are qualified. Promotions and transfers are based on the department director's recommendation, work force requirements, performance evaluations, job descriptions, and related City requirements.
- 3.7.2 Regular employees are eligible for promotion, transfer, or voluntary demotion. To be considered for another position, an employee should possess the qualifications for the vacant position, unless such requirements are waived by the City Manager in the best interests of the City.

## 4 WAGES

### 4.1 Compensation Philosophy

- 4.1.1 The City values its employees as vital in meeting its organizational mission and serving the community. Within available budgetary resources and in compliance with all applicable rules and laws, the City seeks to attract and retain well-qualified, productive employees through a total compensation philosophy which is driven by the following principles and processes:
- 4.1.2 Establish wage levels for positions on the basis of internal equity (considering comparable positions and/or duties within the organization) and external competitiveness (comparing City positions with comparable outside labor markets).
- 4.1.3 Maintain a system that provides for uniformity in initial wage determinations and subsequent wage increases and administer the wage plan equitably and consistently.
- 4.1.4 Recognize that total compensation includes base pay, benefits, paid time off, and other economic components when determining market competitiveness.
- 4.1.5 Maintain high expectations of performance and reward employees who meet these with annual pay increases that recognize an employee's knowledge, skills, longevity, and performance.
- 4.1.6 Subject to revenue limitations, market conditions, and City Council approval, provide employees annual Consumer Price Index ("CPI")-based cost-of-living adjustments.
- 4.1.7 Establish a periodic review of the City's compensation system to assess market competitiveness and the effectiveness of the City's system in attracting and retaining employees.
- 4.1.8 Assist employees in understanding their wages and benefits through clear communications.

## **4.2 Wage Ranges and Wage Plan**

- 4.2.1 Wage Plan. Each position within the City is assigned a general pay range for wage purposes, based on internal comparable equity, comparable pay of similar positions in comparable cities (see Section 4.2.2), job qualifications, level of responsibility, level of difficulty, working conditions, skill, and amount of supervision and discretion required by the specific job title. Each position's pay range will be shown on the City's wage plan, which is approved annually as a part of budget adoption by the City Council.
- 4.2.2 Wage Study and Pay Range Adjustments. In furtherance of economic competitiveness, the City conducts a market study of wage ranges from time to time, usually every other year and coinciding with the year the biennial budget is prepared. Such study reviews the duties and wage ranges of some or all of the City's positions and compares them to the City's list of comparables. Based on the results of the market study, internal equity, and other operational and business-related considerations, the City Manager may recommend, and the City Council may approve or deny, adjustments to the wage plan.

In evaluating the relevant labor markets, the City (usually with the assistance of a compensation consultant, as it deems necessary and/or appropriate), shall maintain a list of comparable cities in the Puget Sound region that are determined to be substantially similar to the City using criteria such as geographic competition (e.g., cities that compete for the same labor pool), service level (i.e., full service v. contract city), number of employees employed, existing departments and positions, resident population/area served, and economic measures (such as assessed valuation, retail sales, and annual budgets). The City's list of "comparables" may be adjusted from time to time, in the City Manager's discretion, based on fluctuations in the labor markets and comparable jurisdictions.

For each position's wage range, the City uses the median top step of the wage ranges of comparable positions from the City's list of comparable cities to compare to the existing wage range. If the top step of a City wage range is within 10% of the median, the range typically will not receive a market adjustment and the range will increase by the amount of the Council-approved cost of living adjustment (if any) in the following year. If the top step of a range is more than 10% below median, the top step will typically be increased to the median top step, plus any Council-approved cost of living increase effective the following year. If the top step of a salary/wage range is more than 10% above the median, the top



step will be adjusted down to 10% above the median and the range will receive the Council-approved cost of living adjustment effective the following year. All range adjustments, including cost of living adjustments, are subject to City Council approval and will go into effect the year following the study (unless otherwise approved by the City Council). The Council retains the discretion to deviate from these standards when it determines it appropriate to do so under the particular circumstances.

The bottom end of wage ranges for all regular City positions will typically be set at 27% below the top step and shall be calculated as follows:  $(\text{Top Step}) \times (1/1.27) = \text{bottom step}$ .

- 4.2.3 If a range adjustment causes an employee's pay to be below the bottom step of the pay range, the employee's pay shall be brought to the bottom step of the adjusted range. If the effective date of the annual cost of living increase and a pay range adjustment are the same, the employee will receive the greater of the cost-of-living increase or the bottom step of the new range (not both).
- 4.2.4 If a range adjustment causes an employee's pay to be above the top step of the new pay range, the employee's pay will be frozen, meaning the employee's pay will remain higher than the top step of the pay range but the employee shall not receive annual merit increases while the employee's pay is higher than the top step. However, the employee will continue to receive annual cost of living increases granted to other employees and approved by the City Council.
- 4.2.5 Due to the relatively small size of the organization and unique nature of our organization and the services we provide, not all positions will have comparable positions in all comparable cities. If there are at least four comparable cities on the established list with comparable positions for a City position, the City will use those comparable positions to determine a median top step. If there are less than four, the City will rely primarily on internal equity considerations, including level of responsibility and skill set required for the position.
- 4.2.6 Before presenting a proposed new wage plan for the following year to the City Council, the City Manager or designee will provide the market study results and the draft proposed plan for employees to review. Employees will be given at least a week to review the study and the proposed wage plan and propose position-specific adjustments based on current year data from the list of market comparable cities.

- 4.2.7 Note that the biennial market study is not a precise evaluation of wage ranges and their position in the market. The study is intended to produce wage ranges in the “ballpark” of the market comparable cities, and there will often be some degree of subjectivity in determining final salary and wage ranges. The overall intent of the market study is to pay employees fairly and competitively in comparison to the market.

### **4.3 Employee Pay Rates**

- 4.3.1 Wage Limits within Pay Range. Employees shall be paid within the parameters of the wage range to which their positions are assigned, unless the City Manager, in the City Manager’s discretion, determines that based on internal equity, external competitiveness, labor market conditions, or other operational considerations, it is appropriate to place an employee outside of the normal wage range for the position.
- 4.3.2 Starting Pay Rate. In consideration of the City’s budget, new employees will typically be paid at the lower end of the range for their position. However, the City Manager may approve hiring a new employee within a higher step or range when the City Manager determines that the employee’s experience, training, skills, or proven capability warrant, or when prevailing market conditions justify a starting wage greater than the lowest step.
- 4.3.3 Annual Merit Increases. Annual merit-based pay increases are typically awarded on the employee’s anniversary date. Annual merit pay increases are based on individual performance and range from 0% to 4% of the employee’s current rate of pay, as determined appropriate by the City, and subject to the upper limit of the employee’s wage range. Annual merit pay increases are awarded as part of the annual performance evaluation process. Merit increases are contingent upon satisfactory performance. If an employee’s performance is consistently unsatisfactory, the department director, in consultation with the City Manager, may choose to not grant a pay increase or may choose to defer a scheduled merit pay increase for a stipulated period of time or until the employee’s job performance is satisfactory. The City Manager may approve other annual increases in certain circumstances to remain competitive (e.g., annual increases for temporary employees).

The general parameters in awarding the 0% to 4% merit increase for the evaluation period is as follows:

- 0%: Overall performance was not satisfactory during the evaluation period and the employee was/is subject to discipline, a performance plan, or other method to improve performance.
- 1% to 2%: Performance in most essential functions was generally satisfactory during the evaluation period, but one or more notable areas of the employee's responsibilities needed (or still need) improvement.
- 3%: Overall performance was satisfactory; employee generally met the expectations of the position and generally followed the policies, values, and service vision of the City.
- 4%: Overall performance was excellent; employee exceeded expectations in one or more areas of responsibility, had a consistent positive attitude, took initiative by bringing forward new ideas to improve processes and service delivery, worked well with others, and modeled the City's policies, values, and service vision.

4.3.4 Reclassifications. Out of class wage adjustments may be considered when an employee and/or their supervisor believe(s) that the majority of duties and responsibilities being consistently performed by the employee are at a level that exceeds the duties/responsibilities set forth in the employee's job description and justifies the employee being placed at a higher wage range. The process for requesting an out of class wage adjustment is as follows: The employee and/or their supervisor shall prepare a memo that outlines their current duties and describes how the majority of those duties, on a consistent and ongoing basis, are being performed at the higher compensation range. The memo shall include a discussion of the job description of the employee's current position and the job description of the higher-level position, and how the job description compares to the employee's actual duties and responsibilities. The department director, Human Resources Manager, and City Manager will review and consider the proposal as described in the memo. Within approximately thirty days after the memo is submitted, the City Manager will determine whether the out of class wage adjustment request should be granted. If approved, the employee may be placed in a position with the appropriate wage range, where applicable, and an out of class wage adjustment will typically result in a four percent (4%) compensation increase or an increase to the lowest step of the new wage range, whichever is greater. Out of class wage adjustment requests shall not be granted retroactively. The out of class wage adjustment will not change the employee's anniversary date for merit increase purposes.

- 4.3.5 Promotions. When an employee is promoted to a position with a higher salary range, the employee's pay rate will increase by four percent (4%) or to the lowest step of the new wage range, whichever is greater. The employee's new anniversary date for merit increase purposes will be the effective date of the promotion.
- 4.3.6 Internal Equity Adjustments. In rare cases and when justified, the City Manager may, in the City Manager's discretion, prospectively adjust salaries for reasons of internal equity and fairness. Prior to final approval and implementation, such increases and the reasons for the internal equity adjustment shall be documented and be reviewed by the Human Resources Manager and the City Attorney (or designee who is also an attorney). An internal equity adjustment will not change the anniversary date for merit increase purposes.
- 4.3.7 Temporary Acting Supervisor Pay. When supervisors and those in management take time off or there is a vacancy in a supervisory or management position, an employee within the applicable department may be designated as acting supervisor or department head (or acting City Manager). When employees serve as an acting supervisor or department head (or acting City Manager) for three or more consecutive work weeks, the employee will receive a four percent (4%) pay increase for the duration of the time served as acting supervisor/department head (or acting City Manager). The four percent increase shall be subject to the upper limit of the applicable supervisor's/department head's pay range (or in the case of acting City Manager, the acting City Manager will receive a four percent (4%) pay increase regardless of salary range limitations). Non-exempt employees stepping into a temporary acting supervisor role will generally retain their non-exempt status.
- 4.3.8 Annual Cost of Living Adjustments. Subject to market conditions and revenue limitations, the City Manager may propose, and the City Council may grant an across-the-board pay adjustment (cost-of-living increase) annually, raising the wages of all positions by a specified amount, or within a defined group of positions. The annual wage adjustment is at the City's discretion, will typically go into effect on January 1 of the following calendar year, and will be based on, but not necessarily identical to, the Seattle-Tacoma-Bremerton Consumer Price Index (CPI-W) average (June to June).

#### **4.4 Paydays and Method of Payment**

- 4.4.1 The City has twenty-six (26) pay periods each year. Paydays are on Fridays, occurring on a bi-weekly basis.
- 4.4.2 Pay periods encompass two work periods as defined in Section 2.2.2.
- 4.4.3 An exception to the City's normal payroll schedule occurs when the scheduled payday falls on a holiday. For a payday that falls on a holiday, the payday will be on the regular workday preceding the holiday. However, payday during the week of Thanksgiving will be on the Friday after Thanksgiving Day.
- 4.4.4 The City requires direct deposit to a bank for all employees.

#### **4.5 Deductions**

Some regular deductions from the employee's earnings are required by law; other deductions are specifically authorized by the employee. The City will withhold from the employee's paycheck those deductions required by law and any voluntary deductions authorized in writing by the employee, or statute, and authorized by the City Manager or Finance Director.

#### **4.6 Travel Away from the City**

All travel activity shall conform to the Travel Policies adopted by the City Council.

#### **4.7 Compensation upon Separation of Employment**

When an employee separates employment with the City, the employee will receive the following compensation:

- Regular wages for all hours worked up to the time of termination which have not already been paid.
- Any overtime or holiday pay due through the termination date.
- A lump sum payment of any accrued but unused vacation and compensatory time.
- Unused sick leave shall be paid per Section 6.3; provided that in the case of an involuntary termination by the City (not including a termination due to a reduction in force or lack of work), the employee will not be paid any accrued sick leave.

## 5 BENEFITS

### 5.1 Retirement Benefits

- 5.1.1 The City makes contributions on behalf of all eligible employees to the 401(a) Defined Contribution Social Security Retirement Replacement Program in lieu of Social Security System, in addition to those contributions made by the employee through payroll deductions. 401(a) plan eligibility, contribution rates, and other details are found in the 401(a) plan document. Employees not eligible for the 401(a) plan will contribute to Social Security.
- 5.1.2 All regular full-time and eligible part-time non-uniformed employees are covered under the Public Employees Retirement System (PERS). Participation requirements, benefit levels, and contribution rates are set by the State of Washington.
- 5.1.3 The City participates in a 457 deferred compensation program. Employees are permitted to make voluntary contributions into 457 retirement programs, subject to plan document rules. The City Manager may recommend, and the City Council may approve qualified 457 plan providers.
- 5.1.4 A retirement plan committee made up of City employees meets regularly, with the help and advice of a retirement plan consultant, to review the defined contribution retirement plans and meet the fiduciary responsibility of the City.
- 5.1.5 Employees intending to retire should notify their department director of their intent to retire as early as possible to provide for an orderly transition.
- 5.1.6 The City reserves the right to modify or withdraw all benefits, including retirement benefits, at any time.

### 5.2 Disability Benefits

- 5.2.1 All employees are covered by the State Industrial Insurance program, and the City may choose to participate in a multi-employer pool or consortium to manage workers' compensation claims. This type of insurance covers employees in case of on-the-job injuries or job-related illnesses. For qualifying cases, State Industrial Insurance will pay the employee for workdays lost for any disability resulting from job-related injuries or illnesses, subject to applicable law. All job-related accidents should be reported immediately to the appropriate supervisor.

- 5.2.2 When an employee is absent for one or more days due to an on-the-job accident or illness, the employee is required to file a claim for Workers' Compensation. If the employee files a claim, the City will continue to pay (by use of the employee's unused sick leave) the employee's regular salary pending receipt of Workers' Compensation benefits.
- 5.2.3 When the employee receives Workers' Compensation benefits, the employee is required to repay to the City the sick leave amount covered by Workers' Compensation and previously advanced by the City. Upon such payment, the employee's correlating sick leave will be credited back to the employee's sick leave account. This policy is to ensure that employees will receive prompt and regular payment during periods of injury, illness, or disability so long as accrued sick leave is available, while ensuring that no employee receives more than the employee would have received had the injury or illness not occurred. Employees should understand that repaid sick leave is not PERS-reportable hours or wages; it is therefore important that the employee contact the Washington State Department of Retirement Systems directly to ensure that the repaid sick leave is not incorrectly reported/recorded.
- 5.2.4 The City may require an independent medical examination, at its expense and to be performed by a care provider of its choice, to determine if/when the employee may be cleared to return to work and if the employee will be capable of performing the essential functions of the position, with or without reasonable accommodation.
- 5.2.5 An employee receiving Workers' Compensation time loss benefits shall continue to accrue vacation leave and sick leave for a period not to exceed six (6) months and the City will continue to pay for the usual health, dental, and life insurance coverage for a one-year period; provided, the employee remains employed with the City.

### **5.3 Insurance Benefits**

- 5.3.1 Regular full-time employees, some temporary employees (subject to Section 3.3.3), and some part-time and job-share employees are eligible to participate in the City's insurance programs (temporary employees and part-time or job share employees should contact Human Resources with questions relating to their eligibility). These include medical, dental, and vision insurance, health reimbursement account (HRA), health savings account (HSA), flexible spending

accounts, life insurance, and long-term disability insurance. The City may choose to contribute to the employees' HRA and I accounts, at the City's discretion. The City's annual contribution amounts to the I and HRA accounts are usually set forth in the City's adopted budget. If the I and HRA amounts are not stated in the adopted budget, the annual contribution amount from the prior year will apply. The City also provides a flexible spending account (FSA) program (i.e., Section 125 Cafeteria Plan), but any contributions to FSAs are made by the employee and not the City.

- 5.3.2 Life insurance benefits are equal to one times (1x) the employee's annual salary, capped at \$150,000. Through December 31, 2014, \$100,000 additional life insurance was offered at employer expense. This program was discontinued for all employees hired after January 1, 2015. Details regarding the City's medical, dental, and vision coverage may be found in the applicable plan summaries.
- 5.3.3 The programs and criteria for eligibility will be explained at the time the employee becomes eligible to join. The City reserves the right to make changes in the carriers and provisions of these programs or to eliminate them, when deemed necessary or advisable.
- 5.3.4 Upon mutual agreement between the employee and the City, and in accordance with the terms and conditions of the insurance policy, the City may continue health insurance coverage, at the employee's expense, during an approved unpaid leave of absence. Continued insurance coverage provided for by Federal Law (COBRA) may apply in the event coverage is not extended through the City.
- 5.3.5 While an employee is receiving Workers' Compensation benefits, the City will continue to pay the employee's health insurance premiums for up to one (1) year (provided, the employee remains employed by the City), after which the employee may choose to use his/her COBRA rights and self-pay insurance premiums.
- 5.3.6 Upon an employee's termination from City employment, at the employee's option and expense, the employee may elect to continue City health insurance benefits to the extent provided under COBRA. Continuation rights are not available if an employee is terminated for "gross misconduct." An administrative handling fee over and above the cost of the insurance premium may be charged to the employee or his/her dependents who elect to exercise their COBRA continuation rights.



- 5.3.7 Regular full-time employees hired prior to January 1, 2005, will receive medical insurance coverage for the employee and eligible dependents, fully paid by the City. Regular full-time employees hired on or after January 1, 2005, are subject to paying 10% of spouse and/or dependent medical premiums (deduction from the employee paycheck); the balance to be paid by the City. Dental and orthodontia insurance premiums for regular full-time and part-time employees are fully paid by the City, regardless of hire date. Part-time employees who are eligible for benefits will receive medical, dental, and orthodontia insurance benefits on a pro-rata basis.
- 5.3.8 In lieu of the City's medical insurance program, a regular full-time employee hired prior to August 1, 2003 will receive up to the same contribution of \$724.45 per month (defined as the 2003 medical insurance premium for employee, spouse, and one dependent) from the City toward a Section 457 (Deferred Compensation) plan or Section 125 benefit plan. These plans must be pre-approved by the City. The employee may also choose to purchase vacation hours with the unused portion of the medical insurance contribution, up to \$724.45 per month. The purchase of vacation hours will be based on the employee's regular hourly rate and any hours purchased will be added to the employee's vacation hour bank. The amount of purchased vacation hours, when added to an employee's normal accrual, shall not exceed an accrual of 30 days per year. For example, if an employee is accruing 15 vacation days per year based on 5 years of service, that employee can accrue up to an additional 15 days of vacation. The total vacation accrual rate cannot exceed 30 days at any time during the year.
- 5.3.9 Job-share employees will receive insurance benefits as prescribed in Section 3.4.5.

## **5.4 Wellness Program**

- 5.4.1 Employee Wellness Program. To reduce absenteeism and to promote employee health and productivity, the City encourages employee wellness through various City-sponsored, voluntary activities and programs. City funds are allowed to be used for providing a wellness program and activities, including but not limited to food, awards and incentives for participation, and materials and equipment for City employees. These benefits shall be a fringe benefit accruing to the employee by virtue of employment with the City and shall not be considered part of the employee's regular rate of pay.
- 5.4.2 Wellness Program Overview.

- 5.4.2.1 The City established an Employee Wellness Program in 2003 and confirmed its commitment to the program by adoption of Resolution 03-078. This program provides incentive awards designed to encourage and reward employee participation in the program. Participation awards and incentives for employees may include gift cards, gifts, prizes, and other items of value to recognize employee participation in wellness activities.
- 5.4.2.2 Participation in the City's Employee Wellness Program is voluntary and shall be limited to employees insured on the City's medical plans.
- 5.4.2.3 Whenever possible, the City's Wellness Program will be provided at low or no-cost to qualified employees.
- 5.4.2.4 The program will be composed of health education and fitness-related activities that meet the needs and interest of the employees, as well as activities and programming that supports the current AWC WellCity standards. Such activities may be on- or off-site and may be partially or fully funded by the City.
- 5.4.2.5 The wellness budget will include a minimum of \$10 per employee per year.
- 5.4.3 Wellness Coordinator, Wellness Committee, & Wellness Committee Meetings.
  - 5.4.3.1 The City Manager will designate a department or division to assign a Wellness Coordinator and oversee the Employee Wellness Program and assign the task of coordinating the program to an employee.
  - 5.4.3.2 Membership and terms of service, and other relevant information and procedures will be determined in the Wellness Committee Charter, as approved by the City Manager.
  - 5.4.3.3 Committee members are permitted to attend meetings and facilitate the program as needed; provided that these meetings do not disrupt City operational and staffing needs.
  - 5.4.3.4 The Wellness Committee will develop programs around AWC award requirements including awareness, motivational, behavioral change, and cultural support.

#### 5.4.4 Staff Participation.

5.4.4.1 City employees will be provided time to participate in wellness activities during regular work hours for activities organized by the Wellness Committee which may include: health screenings, health education seminars, or group wellness activities approved case-by-case by the City Manager.

5.4.4.2 City employees are encouraged to provide program ideas to the Wellness Committee.

5.4.4.3 City employees are encouraged to attend Wellness Committee meetings.

5.4.4.4 Additional wellness activities will also be available for employees to participate in on their own time.

### 5.5 Length of Service and Performance Awards

5.5.1 All regular employees are eligible for a length of service award. Seasonal and other temporary employees are not included in this program. The value of each length of service award can be given in various forms, such as gift baskets and gift cards. In addition, the City may fund an annual service recognition event for all City employees that includes but is not limited to food, entertainment, and decorations.

#### 5.5.2 Schedule and Amounts for One-Time Length of Service Awards:

- After two years of service, \$35 or less per employee.
- After five years of service, \$75 or less per employee.
- After ten years of service, \$100 or less per employee.
- After fifteen years of service, \$150 or less per employee.
- After twenty years of service, \$250 or less per employee.
- After the completion of each additional five years of service beyond twenty, \$250 or less per employee.

Length of Service Award payments are subject to applicable payroll taxes and withholdings.

- 5.5.3 Performance Awards. In addition to length of service recognition, the City Manager is authorized to honor noteworthy performance and/or work ethic with outstanding service awards. Such awards are non-monetary and may be given in the form of a wall plaque, certificate, or similar token.
- 5.5.4 Service Recognition Upon Separation. Employees with at least five years of service with the City who voluntarily leave employment with the City or are laid off may receive a plaque for their service, provided they are leaving the City in good standing. Employees who retire from the City via a PERS or 401(a) defined contribution plan may receive a plaque or other token of appreciation for their service, and the plaque or token received may be based on their years of service. The City may host a celebratory retirement event in a City-owned building or park. The City may provide light refreshments, nominal decorations, and other nominal and incidental items associated with the retirement event. The City may also send out electronic invitations for the retirement event. The City may choose to host the retirement event virtually and use one of its online video platforms to do so. Retirement events may typically be held outside of normal work hours, but may also be included as part of, or immediately before or after, all-staff meetings or at other times designated by the City Manager.

## **5.6 Other Benefits**

- 5.6.1 Employee Meetings. In recognition of its employees and the services they provide for the community and for the purposes of promoting organizational health and conviviality in the organization, the City Manager and department heads may occasionally organize special employee meetings and gatherings that are in addition to routine operational meetings (e.g., weekly or monthly team meetings). City funds may be used for food, nominal decorations, and other incidental items for these occasional gatherings.
- 5.6.2 Business Meetings. Some employees, by the nature and custom of their jobs, participate in city-business-related lunch meetings with representatives of other agencies or community members. As a general guideline, employees should typically not allow people and organizations they potentially regulate or firms and consultants they conduct city business with to purchase meals for them. When the lunch hour is on occasion (because of busy schedules and timelines) consumed by a meeting to discuss City business or travel to or from a business meeting, employees may, subject to department head approval, charge the City (or be reimbursed by the City) for meals for City business purposes. In addition, the City may host a business meeting of other agency representatives. If this

meeting is during a meal hour, the City may pay for the meals of the attendees (and employees may allow other public agencies to reciprocate when these other agencies host). Further, if City meetings (such as City Council meetings) go into the dinner hour (typically 6 p.m.), the City may pay for dinner for those employees in attendance.

- 5.6.3 On-Site Coffee and Other Beverages. As a support to employee productivity and satisfaction, City expenditures may be used to provide coffee and other beverages for use on work premises by City employees during the workday and evening hours. Employees may not take these items to use at home or other non-work location. Additionally, City employees, at City expense, may provide coffee, other beverages, and snacks to guests at City work premises for City-related business meetings.
- 5.6.4 Business Meeting Meal & Travel Allowance. For some executive-level positions, the nature and custom of their jobs (such as economic development and intergovernmental relations) may require more frequent lunch meetings and travel around the Puget Sound area. In these cases, tracking mileage and odometer readings and tracking and submitting meal receipts can be time consuming and inefficient. In these limited and unique cases, the City Manager may allow a monthly allowance up to four hundred dollars (\$400) per person for business meetings and related meals and travel. The City Manager is not eligible for this allowance unless specifically and separately approved by the City Council for the City Manager.
- 5.6.5 Birthdays and Other Personal Milestones. City employees may use City premises to recognize and celebrate birthdays and other noteworthy personal milestones (e.g., baby shower) of their coworkers. If during the workday, these gatherings will be brief. The City Manager may designate a certain time (or times) during each month when these gatherings may take place (e.g., immediately before or after all-staff meetings). Preparation and cleanup will be nominal. The City will not pay for food, gifts, or decorations associated with these gatherings.

## 6 LEAVES OF ABSENCE AND TIME OFF

### 6.1 Leaves

6.1.1 The City has the following different types of leave:

- 1) Vacation Leave
- 2) Sick Leave
- 3) Vacation and Sick Donation (Shared Leave)
- 4) Family and Medical Leave
- 5) Paid Family and Medical Leave
- 6) Pregnancy Disability Leave
- 7) Leave without Pay
- 8) Jury Leave
- 9) Administrative Leave
- 10) Military Leave
- 11) Executive Leave
- 12) Bereavement Leave
- 13) Holidays
- 14) Religious Holidays
- 15) Parental Leave
- 16) Leave for Domestic Violence Victims and Their Family Members
- 17) Wellness Day Off

### 6.2 Vacation

6.2.1 The City encourages employees to annually take sufficient vacation time to maintain a healthy work-life balance. Each regular full-time employee is entitled to vacation leave as follows, based on the employee's anniversary date:

| <u>Vacation Accrual</u><br><u>Schedule</u>     | <u>Vacation Days per</u><br><u>Month</u> | <u>Vacation Days per Year</u> |
|--|--|-------------------------------|
| Start of the first year<br>through year five   | 0.83                                     | 10                            |
| Start of the sixth year<br>through year eight  | 1.25                                     | 15                            |
| Start of the ninth year<br>through year twelve | 1.67                                     | 20                            |
| Start of the thirteenth<br>year and beyond     | 2.08                                     | 25                            |

As an example, a regular employee who has been continuously employed by the City for four years (i.e., *completed* four years) is in their fifth year of employment and is entitled to accrue 0.83 vacation days per month. As another example, a regular employee who has *completed* five years of continuous employment with the City is in their sixth year and is entitled to accrue 1.25 vacation days per month.

To provide a more specific example with actual dates, let's assume a regular full-time employee began employment with the City on February 1, 2020. Starting on their first day of employment, their vacation accrual rate would be 0.83 days per month. Their vacation accrual rates would start on the anniversary dates as listed here:

| <u>Anniversary Date</u> | <u>Vacation Accrual Rate (days/month)</u> |
|-------------------------|---|
| February 1, 2021        | 0.83                                      |
| February 1, 2022        | 0.83                                      |
| February 1, 2023        | 0.83                                      |
| February 1, 2024        | 0.83                                      |
| February 1, 2025        | 1.25                                      |
| February 1, 2026        | 1.25                                      |
| February 1, 2027        | 1.25                                      |
| February 1, 2028        | 1.67                                      |
| February 1, 2029        | 1.67                                      |
| February 1, 2030        | 1.67                                      |
| February 1, 2031        | 1.67                                      |
| February 1, 2032        | 2.08                                      |
| February 1, 2033        | 2.08                                      |

- 6.2.2 Regular part-time and job-share employees will receive vacation leave on a pro-rata basis. For temporary employees, see Section 3.3.
- 6.2.3 Vacation days will be earned bi-weekly, so that the annual total equals the "vacation days per year" based on the number of years of employment.
- 6.2.4 Prior Service Credit for Vacation Accrual. In determining the vacation accrual rate, experience in another jurisdiction directly related to the new position may be credited as years of employment within Kenmore, in the City Manager's discretion. In such case, the employee will receive the accrual rate based on their

years of service up to five years. In addition, the City Manager may provide accrued vacation time at the time of hire.

- 6.2.5 Each department is responsible for scheduling its employees' vacations without undue disruption of department operations and customer service. Preferably, leave requests should be submitted at least two weeks prior to taking vacation leave. Vacation leave requests may be denied if, in the City's discretion, the leave would adversely impact or interfere with the City's operational or business needs.
- 6.2.6 Employees accrue and may use vacation leave during their work trial period. Employees do not accrue vacation leave during a leave without pay.
- 6.2.7 The maximum number of vacation hours which may be generally carried over from December 31 of one year to January 1 of the next year is 240 hours. In cases where City operations have made it impractical for an employee to use vacation time, or where the employee has made suitable arrangements with the department director approved by the City Manager, additional accruals may be authorized, at the City Manager's sole discretion. Employees will be paid for unused vacation time upon termination of employment, up to a maximum of 320 hours.

### **6.3 Sick Leave**

- 6.3.1 The City offers sick leave benefits consistent with the Washington Paid Sick Leave Laws, RCW 49.46.210 and Chapter 296-128 WAC (WPSL), and for most regular employees, additional sick leave benefits not required by law (ASL), as follows.
  - 6.3.1.1 Regular full-time employees shall accrue sick leave at the rate of eight (8) hours for each calendar month of completed employment.
  - 6.3.1.2 Regular part-time employees shall accrue sick leave at a prorated rate, based on the number of hours actually worked by them in relation to a full-time schedule (but not to exceed the accrual rate of eight sick leave hours per month).
  - 6.3.1.3 Job-share employees shall accrue sick leave benefits as prescribed in Policy 3.4.5.



- 6.3.1.4 Temporary employees and regular employees who do not otherwise qualify for City benefits and who are hired after the effective date of this Sick Leave Policy, shall accrue only WPSL benefits, at an accrual rate of one (1) hour for every 40 hours worked by them. Temporary and regular employees who do not otherwise qualify for City benefits and who were hired prior to the enactment of this Sick Leave Policy shall continue to accrue sick leave benefits at their existing accrual rates; provided, that once such employees' current employment with the City ends, they shall be subject to this section if they are subsequently rehired by the City.
- 6.3.1.5 In no event will any employee earn more than eight (8) hours of sick leave in any calendar month, unless otherwise required by law.
- 6.3.1.6 In any event employees shall accrue at least one (1) hour of sick leave for every 40 hours worked by them.
- 6.3.2 Sick leave benefits shall begin accruing as of the employee's hire date. New employees may use earned sick leave during their trial period.
- 6.3.3 Employees may take their sick leave in 15-minute increments.
- 6.3.4 Sick leave benefits shall be prorated for any partial months at the commencement or termination of the employee's employment.
- 6.3.5 Sick leave benefits shall accrue only when an employee is in paid status (which includes paid leave but does not include unpaid leave or worker's compensation).
- 6.3.6 Employees may carry over their accrued sick leave from one calendar year to the next.
- 6.3.7 Sick leave benefits shall be paid at the employee's regular base rate of pay.
- 6.3.8 Employees may use their accrued sick leave benefits for any absence due to the following reasons:

- The employee's own illness, injury, or health condition; to accommodate the need for medical diagnosis, care, or treatment of a health condition; or preventative medical care.
- The employee's care for a family member with an illness, injury, or health condition; to care for a family member who needs medical diagnosis, care, or treatment; or to care for a family member who needs preventative medical care.
- The City is closed by order of public official for any health-related reason, or the employee's child's school or daycare is closed for such a reason.
- Absences covered by the City's Domestic Violence Leave Policy.
- Other circumstances which may be authorized by the City Manager or designee, in the City Manager's or designee's discretion.

6.3.9 For purposes of this Sick Leave policy, "family member" means the employee's:

- child (biological, adoptive, foster, stepchild or child for whom the employee stands in loco parentis, is a legal guardian for, or is a de facto parent);
- parent (including the same relationships as set forth for "child" above);
- spouse or registered domestic partner;
- spouse's or domestic partner's parent;
- grandparent;
- grandchild or sibling.

"Domestic partner" shall have the same meaning as set forth in RCW 26.60.020.

6.3.10 Employees should request to use their sick leave benefits as far in advance as possible. This generally means that an employee should provide notice at least ten (10) days in advance of any planned or otherwise foreseeable absence (such as a planned medical appointment or procedure) and at least one (1) hour prior to the employee's shift for any unforeseeable or emergent absence (unless such notice is not practicable under the circumstances, in which case the employee should provide notice as soon as practicable).

6.3.11 The City may require an employee to provide proof of illness, injury, or health condition from a qualified health care provider or other health care source as determined by the City Manager (or designee).

6.3.12 For the first 92 hours of sick leave used in any calendar year, such medical certification shall be limited to absences of more than three (3) consecutive

days. If an employee believes that such required verification will result in an unreasonable burden or expense, the employee should notify the City, preferably in writing, of this and provide an explanation that (i) the employee's use of the sick leave is for one of the reasons listed above and (ii) how the verification requirement will result in an undue burden or expense. Upon receipt of such notice from the employee, the City will consider the employee's explanation and proceed in accordance with the process set forth in WAC 296-128-660. Otherwise, failure to provide the required verification may result in a loss of leave benefits for that work period and/or may result in further disciplinary action.

- 6.3.13 If an employee feels that they are being discriminated or retaliated against because of their lawful use of the first 92 hours of their sick leave benefits in a calendar year, the employee should contact Human Resources. If the employee is not satisfied with the City's response, the employee may contact the Washington State Department of Labor & Industries:

Online: [www.lni.wa.gov/WorkplaceRights](http://www.lni.wa.gov/WorkplaceRights)  
 Call: 1-866-219-7321  
 Visit: [www.lni.wa.gov/Offices](http://www.lni.wa.gov/Offices)  
 Email: [ESgeneral@lni.wa.gov](mailto:ESgeneral@lni.wa.gov)

- 6.3.14 After an employee's use of 92 hours of sick leave in any calendar year, the City may require medical certification in connection with any additional sick leave usage, and this medical verification requirement is not subject to the process outlined in Section 6.3.9.1 above. Failure to provide such required verification may result in loss of sick benefits for that work period and may result in further disciplinary action. Employees who misuse their sick benefits will be subject to disciplinary action, up to and including termination.

- 6.3.15 Upon termination of a regular employee's employment due to death or PERS- or 401(a) plan-eligible retirement, the employee's accrued but unused sick leave benefits shall be cashed out to the employee in an amount equal to fifty percent (50%) of such employee's accrued but unused benefits, up to a maximum of 720 paid hours. Upon termination of a regular employee's employment due to layoff or resignation in good status (see Policy 9.5.1), the employee's accrued but unused sick leave benefits shall be cashed out to the employee in an amount equal to twenty percent (20%) of the employee's accrued but unused sick leave benefits, up to a maximum of 720 paid hours. Sick leave benefits shall not be cashed out to an employee in cases of an involuntary termination. Temporary or

seasonal employees shall not be eligible to receive a cash-out of their sick benefits.

- 6.3.16 If an employee is rehired by the City within twelve (12) months of the employee's termination date, up to forty (40) hours of sick leave benefits previously accrued to the employee and not otherwise cashed out by the City shall be reinstated to the employee's sick leave bank upon rehire.

#### **6.4 Vacation and Sick Leave Donation (Shared Leave)**

- 6.4.1 Intent. The purpose of shared leave is to permit City employees to come to the aid of a fellow City employee who is on FMLA leave or is suffering from or has an immediate family member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or to terminate his or her employment.

- 6.4.2 A department director, with the City Manager's approval, may permit an employee to receive shared leave if:

- The employee suffers, or has an immediate family member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature, and which has caused, or is likely to cause, the employee to go on leave without pay status or to terminate his or her employment with the City.
- The employee has depleted or will shortly deplete all but forty (40) hours of their total of accrued vacation, sick leave, compensatory time, floating holiday time, and/or other paid leave. An employee may receive donated leave and still retain up to forty (40) hours of accrued leave.
- Prior to the use of shared leave, the employee has complied with the City's sick leave policy.
- The employee is not eligible for state industrial insurance benefits.

- 6.4.3 For purposes of this Shared Leave Policy, an employee's "immediate family member" shall include the employee's: child (biological, adoptive, foster, stepchild or child for whom the employee stands in loco parentis, is a legal guardian for, or is a de facto parent); parent (including the same relationships as set forth for "child" above); spouse or registered domestic partner; sibling; or grandparent. "Immediate family member" may also include cases in which an employee is able to demonstrate, to the satisfaction of the City Manager or

designee, that the employee is the sole relative and caregiver for a family member who does not otherwise meet the definition herein. "Registered domestic partner" shall have the same meaning as set forth in RCW 26.60.020.

- 6.4.4 The department director, with the concurrence of the City Manager, shall determine the amount of shared leave, if any, which an employee may receive under this policy. The employee may be required to provide appropriate medical justification and documentation both of the necessity for the leave and the time which the employee can reasonably be expected to be absent due to the condition. To the extent possible, shared leave should be used on a consecutive basis.
- 6.4.5 Employees may request their department director to approve the transfer of a specified amount of accrued vacation or sick leave to an employee who is authorized to receive shared leave as provided herein. In order to be eligible to donate vacation or sick leave, an employee must have a total of more than 10 days of accrued vacation or sick leave. Transfers shall be in increments of one day of leave. In no event shall a transfer of leave be approved which would result in an employee reducing his or her total vacation or sick leave in a calendar year to less than 10 days. The department director shall not transfer vacation leave in excess of the amount specified in the request. All donations of leave shall be voluntary.
- 6.4.6 Leave may be transferred from employee(s) from one department to an employee of the same department, or, with the concurrence of both department directors, to an employee of another department.
- 6.4.7 Subject to benefit plan rules, while an employee is on shared leave, they will continue to be classified as a City employee and shall receive the same treatment, in respect to salary and benefits, as the employee would otherwise receive if using vacation leave. Donated hours and pay associated with those hours are not reportable under Washington State Department of Retirement Systems Public Employee Retirement System rules; employees should contact DRS directly to ensure that any shared leave used by them is not incorrectly reported/recorded.
- 6.4.8 All salary and benefit payments made to the employee on a shared leave shall be made by the department employing the person using the shared leave.

- 6.4.9 The employee's salary rate shall not change as a result of being on shared leave nor, under any circumstances, shall the total of the employee's salary and other benefits, including but not limited to state industrial insurance or any other benefit received as a result of payments by the City to an insurer, health care provider, or pension system, exceed the total of salary and benefits which the employee would have received had he or she been in a regular pay status.
- 6.4.10 Donated sick leave shall be transferred on an hour-for-hour basis. Donated vacation leave shall be transferred on a dollar-for-dollar basis and shall be converted into sick leave for the receiving employee. The value of the donated vacation leave shall be determined at the current hourly wage of the transferor and the value of the donated sick leave shall be calculated at the recipient's wage.
- 6.4.11 Payroll shall be responsible for computing the values of donated leave and shared leave and shall also be responsible for adjusting the accrued leave balances to show the transferred leave. The Finance and Administration Director shall determine the appropriate fund transfers and budget amendments if needed. Records of all leave time transferred shall be maintained in the event any unused time is returned at a later date.
- 6.4.12 The value of any leave transferred which remains unused shall be returned at its original value to the employee or employees who donated the leave. The department director shall determine when shared leave is no longer needed. To the extent administratively feasible, the unused leave shall be returned on a pro rata basis.

## **6.5 Family and Medical Leave**

- 6.5.1 Eligible employees are granted up to 12 weeks of protected leave without pay in a 12-month rolling calendar period for qualifying family and medical reasons. To be eligible for such leave, an employee must have worked for the City for at least 12 months and at least 1,250 hours in the preceding 12 months. Employees who expect to take more than three consecutive days of sick or regular leave or more than two intermittent leaves for any of the reasons defined below, need to contact Human Resources to determine if FMLA applies, and if a Certification of Healthcare Provider form needs to be completed.
- 6.5.2 If an employee requests or makes known to their supervisor that they may make or are making an FMLA-related leave request, the supervisor must inform Human

Resources and have the employee contact Human Resources to determine if FMLA applies. The Human Resources Manager will review and determine if the request falls under FMLA with its rights and requirements and will notify the employee of Human Resources' determination in this regard.

6.5.3 Family & Medical Leave ("FML") will be granted for any of the following reasons:

- 6.5.3.1 To care for and bond with the employee's child after birth or placement for adoption or foster care; (if both parents are employed by the City, combined FML shall not exceed 12 weeks);
- 6.5.3.2 To care for the employee's child (if such child is under the age of 18 or incapable of self-care), spouse, registered domestic partner, or parent who has a serious health condition;
- 6.5.3.3 For a serious health condition that renders the employee unable to perform the essential duties of the employee's job;
- 6.5.3.4 A "qualifying exigency," as defined by the applicable regulations adopted by the Department of Labor from time to time, arising out of a covered family member's active duty or call to active duty in the Armed Forces in support of a contingency plan. For purpose of this policy, a "covered family member" means the spouse, child, or parent of an eligible employee; or
- 6.5.3.5 To care for a covered family member who qualifies as a "covered service member." For purposes of this policy, the term "covered servicemember" means a member of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, or who is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for an injury or illness incurred by the covered servicemember in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. Eligible employees may take up to 26 weeks of leave during a single 12-month period to care for a covered family member who is a covered service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month

period. Servicemember FMLA leave runs concurrent with other leave entitlements provided under federal and state law.

- 6.5.4 An employee is required to notify the City if the employee uses paid leave for a reason covered by the FMLA, so that the leave will be counted against the employee's FML allowance. If the City has reason to believe that an employee's absence is due to FMLA-qualifying reasons, the City may initiate the FMLA process for the employee. FML will be monitored and tracked on a rolling calendar year basis, which is measured from the first day of an employee's use of FML. Employees are responsible for notifying Human Resources of any changes in status, especially when a qualifying event or condition no longer exists.
- 6.5.5 Employees must provide the City with at least 30 days written notice when the employee's FML is foreseeable. If leave is not foreseeable, an employee must provide notice as soon as practicable. Otherwise, leave may be delayed until 30 days after notice is given. An FMLA Leave Request form is available from Human Resources. When leave is taken for a serious health condition (either the employee's own or the employee's family member) that is expected to extend beyond five consecutive working days, the request must be supported by a medical certification (FMLA Certification of Healthcare Provider Form for Self or Family Member). The City may require a second or third opinion at the City's option and expense. The Certification of Healthcare Provider form is available from Human Resources.
- 6.5.6 Accrued paid leave (sick leave and vacation leave) must be used to the extent available during FML, to the extent consistent with applicable law. Paid leave may not be used as an extension of a FML. Sick leave and vacation leave will not accrue during periods of unpaid leave. FML leave runs concurrently with PFML and the City's voluntary Parental Leave.
- 6.5.7 Intermittent or reduced schedule leave may be taken when medically necessary for either the employee's own serious health condition or for that of a qualifying family member.
- 6.5.8 If an employee's leave extends past two weeks, the City requires the employee to report at least every two weeks on their status and intent to return to work, unless the employee's medical certification is for a longer duration, in which case the employee should advise the City of any changes to their estimated return to



work, as certified. During FML leave, the City will continue to provide health insurance on the same basis as during regular employment. If an employee takes unpaid leave, the employee must pay the premiums for other insurance plans such as disability and life insurance and other supplemental benefits the employee may have elected to enroll in.

- 6.5.9 The City retains the option of requiring an employee to provide a medical certification of their fitness for duty to Return to Work (RTW) after a medical leave for the employee's own serious health condition. In most cases, an employee will be reinstated to their same job position or substantially equivalent job position upon the completion of FML; however, reinstatement may not occur if the employee's position was eliminated by a bona fide restructuring or reduction in force, the employee fails to return to work immediately following the conclusion of the FML, or the employee qualifies as a "key employee," as defined by the FMLA.

## **6.6 Paid Family and Medical Leave**

- 6.6.1 PFMLA Program. The Washington State Employment Security Department (ESD) administers an insurance program under the Paid Family Medical Leave Act (PFMLA), pursuant to which eligible employees will qualify for partial wage replacement and leave benefits for covered family and medical reasons. This policy provides a summary of the PFML program, but employees may obtain additional information at [www.paidleave.wa.gov](http://www.paidleave.wa.gov). To the extent an issue is not addressed in this policy, the City will administer this benefit program consistent with applicable statutes and regulations.

### **6.6.2 Employee / City Premiums.**

- 6.6.2.1 In administering the PFMLA program, the Washington State Employment Security Department (ESD) assesses a premium rate for each City employee, which rate is established by law. The employee is responsible for 73% of the total premium rate (the "Employee's Share"). The City deducts the Employee's Share from the employee's paycheck (up to the Social Security cap, as defined by law), in accordance with its standard payroll practices.
- 6.6.2.2 The remaining 27% of the PFMLA premium rate is paid by the City (the "City's Share").
- 6.6.2.3 The City reports and remits the applicable PFMLA premiums to the ESD. Should the State in the future modify the PFML premium rate or

the percentage of premiums subject to collection through payroll deduction, the City will modify payroll practices to reflect those statutory changes.

### 6.6.3 Eligibility.

- 6.6.3.1 To be eligible for monetary leave benefits under the PFMLA, an employee must have worked 820 hours in Washington State (for any employer or combination of employers) in the year leading up to the date of leave. To be eligible for job protection under the PFMLA, an employee must (i) have been employed by the City for at least 12 months and (ii) have been in paid status for at least 1,250 hours in the 12 months preceding the start of PFML.
- 6.6.3.2 An employee is ineligible for PFML benefits during any period of suspension from employment or during which the employee works for remuneration or profit (e.g., outside employment or contracting).
- 6.6.3.3 Paid Family and Medical Leave (PFML) benefits, as applicable, may be granted for any of the following reasons:
  - Medical Leave.
    - The employee's own serious health condition, as defined under the federal Family & Medical Leave Act (FMLA) and RCW 50A.05.101, which causes the employee to be unable to work; provided, that an employee is ineligible for PFML if also receiving workers' compensation time loss benefits due to a workplace injury.
  - Family Leave.
    - To care for the employee's family member with a serious health condition.
    - To care for the employee's child after birth or placement (by adoption or foster care) within 12 months of such birth/placement (in cases of adoption or foster care, the child must be under the age of 18 years).
    - For a family member's qualifying military exigency as defined under FMLA.

For purposes of this policy, "family member" means the employee's: child (biological, adoptive, foster, step-child, or child for whom the employee stands in loco parentis, is a legal guardian for, or is a de facto parent); parent (including the same relationships as set forth for "child" above); spouse or registered domestic partner; spouse's or

domestic partner's parent; grandparent; or sibling. "Registered domestic partner" shall have the same meaning as set forth in RCW 26.60.020.

FML runs concurrently with PFML where an absence is covered by both laws.

6.6.4 Application for Benefits. Applications for PFML benefits are made directly to the ESD. Employees should contact the ESD to commence the application process. The ESD will require the employee to complete its certification form, relating to the employee's eligibility and qualification for PMFL benefits.

6.6.5 Notice.

6.6.5.1 Employee Notice.

6.6.5.1.1 When the need for PFML is foreseeable (such as for planned medical procedures or the birth of a child), an employee must notify the City of the need for such leave at least 30 days in advance of such leave. If the need for PFML is not foreseeable, the employee must provide notice as soon as practicable.

6.6.5.1.2 The employee's notice must be in writing, must identify the family or medical nature of the leave, and must contain the anticipated timing and duration of such leave. If an employee fails to provide this required notice, the ESD may deny benefits for the period of time during which the notice was insufficient.

6.6.5.1.3 Employees apply directly to the ESD for PFML monetary benefits. An employee must, within five (5) business days of employee's receipt of the same, notify the City of the ESD's determination with respect to such application for benefits, including the amount of any awarded monetary benefits. This is to assist the City's recordkeeping and administrative functions as well as any related paid leave calculations.

6.6.5.1.4 If leave is being taken for the employee's or employee's family member's planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt City operations.

6.6.5.1.5 If taking leave intermittently, an employee must notify the City each time PFML leave is taken so the City may properly track leave use.

6.6.5.2 Employer Notice.

6.6.5.2.1 A workplace poster prepared by the ESD, outlining an employee's rights under the PFMLA, has been posted in the break rooms at City Hall and the Public Works facility office.

6.6.5.2.2 Additionally, when an employee is absent for more than seven (7) consecutive days for a reason known to be covered under the PFMLA, the City will provide the employee with a notice of rights, on such form prepared by the ESD. Such notice shall be provided the later of: (i) five (5) business days after the seventh day of absence; or (ii) five (5) business days after the City receives notice that the employee is absent for a covered reason.

6.6.6 Length of Leave.

6.6.6.1 Employees who qualify for PFML may take up to 12 weeks of family or medical leave per claim year, or a total of 16 weeks of combined family and medical leave. Additionally, female employees whose medical leave involves incapacity due to pregnancy are entitled to two (2) additional weeks of medical leave, for a combined total of 18 weeks of PFML.

6.6.6.2 PMFL may be taken intermittently, subject to the minimum claim requirement of eight (8) consecutive hours.

6.6.6.3 PMFL is tracked during the claim year, which is the 52-week period commencing on the Sunday of the week in which the employee meets

the minimum claim requirement or in which the employee first takes leave due to the birth or placement of the employee's child (as applicable).

- 6.6.7 **Waiting Period.** Monetary PFML benefits, with the exception of leave taken for the birth or placement of a child, are subject to a seven-day waiting period. This means that for the first seven (7) consecutive days of a PFML claim, the employee may take PFML but shall not receive any PFML monetary benefits. The waiting period for PFML monetary benefits commences on the Sunday of the week in which an employee claims a minimum of 8 consecutive hours of PFML. While no monetary PMFL benefits are paid during the waiting period, the waiting period is credited against the duration of the employee's PFML.
- 6.6.8 **Leave Benefits.**
  - 6.6.8.1 While on PMFL, employees are entitled to monetary benefits through the state program. PFML monetary benefits are calculated based upon a percentage of the employee's average weekly wage. The benefit is generally up to 90% of an employee's average weekly wage, with minimum and maximum weekly benefits established by law. Employees may refer to the ESD's website at [www.esd.wa.gov](http://www.esd.wa.gov) for a benefits calculator, which may provide an approximate estimate of benefits. The ESD is responsible for calculating and paying the PFML monetary benefits.
  - 6.6.8.2 City paid time off, including but not limited to sick leave, vacation leave, parental leave, shared leave, etc., is non-supplemental to PFML. This means that if an employee uses City paid leave in connection with PFML, the employee must report such leave use to the ESD, and such use will reduce the Employee's PMFL monetary benefits.
  - 6.6.8.3 When an employee is on PFML and is not using City paid time off, the employee is considered to be in an "unpaid" status with the City. Insurance coverage will be handled in the same manner as other unpaid leaves of absence, pursuant to City policy and subject to any FMLA requirements requiring continuation of coverage.
- 6.6.9 **Reinstatement/Return to Work Recertification.** An employee who is eligible for job-protected leave will be restored to the same or equivalent position at the

conclusion of PFML, unless unusual circumstances have arisen (e.g., the employee's position or shift was eliminated for reasons unrelated to the leave). The City may require a return-to-work certification from a health care provider before restoring the employee to work following PFML where the employee has taken leave for the employee's serious health condition and has taken more than three (3) days of consecutive leave. Under certain conditions, the City may deny job restoration to a salaried employee who is among the highest paid ten percent (10%) of City employees. If an employee taking PFML chooses not to return to work for any reason, the employee should notify the City as soon as possible.

- 6.6.10 Questions. Questions regarding this PFMLA policy should be directed to Human Resources.

## **6.7 Pregnancy Disability Leave**

Employees are entitled to use sick leave or vacation leave, or to take an unpaid pregnancy disability leave of absence for the period of their actual disability due to pregnancy, childbirth or related medical conditions. The employee must provide the City with appropriate documentation from a health care professional establishing the period/length of actual disability. Employees seeking leave under this policy should provide written notice of the intended leave dates at least 30 days in advance of the leave or as soon as possible in the case of an emergency.

## **6.8 Leave without Pay**

- 6.8.1 The City Manager may grant leaves of absence without pay for absence from work not covered by any other type of leave or if other leave balances are exhausted. Examples of situations for which leave without pay may be granted include time off work for personal reasons, such as prolonged illness, parenting, caring for an ill relative, pursuing an education, or fulfilling a military obligation in excess of fifteen (15) calendar days per year. Another example is a new employee who has planned time off but doesn't have enough accrued leave to cover the time off.

- 6.8.2 The following requirements for leave without pay apply:

- Leave may be granted to an employee for a period of up to ninety (90) calendar days upon the approval of the City Manager. Further extensions are at the discretion of the City Manager if such leave does not interfere with the orderly and efficient provision of services to the residents of the City.

- Accrued compensatory time, if any, and vacation leave must be exhausted prior to taking any leave without pay.
- An employee's benefits are suspended or prorated (depending on the length of leave without pay) during the period of unpaid leave until the employee returns to work. An employee on leave without pay for more than five working days in a calendar month will be required to pay a prorated amount of their health insurance premiums for that month. Vacation, sick leave, and/or any other benefits do not accrue while an employee is on leave without pay (subject to benefit plan documents).
- In certain circumstances, self-payment of benefits may apply. (See Section 5.3.3 on Insurance Benefits)

6.8.3 An employee who fails to report promptly at the end of the unpaid leave is presumed to have resigned. An employee returning from a temporary disability may, at the City's option, return to the same position or similar position at a comparable rate of pay.

6.8.4 If the leave without pay is due to an illness, the City may require a doctor's certificate stating that the employee is capable of returning to work and performing the work, duties and responsibilities of the employee's position.

## 6.9 Jury Leave

Regular employees may be granted time off with pay for up to three weeks to serve on a jury. After the three-week period with pay, the employee will be required to use accrued vacation leave, comp time, or leave without pay for extended jury duty. If an employee is summoned during a critical work period, the City may ask the employee to request a waiver from duty. An employee receiving jury duty leave shall be required to remit to the City the stipend/pay received by the employee from the court for such service during any period for which jury duty leave is paid by the City.

## 6.10 Administrative Leave

On a case-by-case basis, the City may place an employee on administrative leave, with or without pay, for an indefinite period of time, as determined by the City Manager to be in the best interests of the City during the pendency of an investigation or other administrative proceeding.

## **6.11 Military Leave**

Employees who are members of the National Guard or federal reserve military units may be absent from their duties, with pay, for a period of up to twenty-one (21) calendar days per year (measured from October 1 to the following September 30) when they are performing ordered military duty and while going to and from that duty.

## **6.12 Executive Leave**

- 6.12.1 In recognition of exemplary service and the many hours worked by exempt employees beyond the standard workweek, the City desires to grant up to 10 days (80 hours) of executive leave each calendar year. Executive leave will be prorated for exempt part time employees and for eligible new employees with accruals beginning the first day of the month following date of hire. The City Manager and department directors will be granted eighty (80) hours of executive leave per year at the beginning of the calendar year. Other exempt employees will be granted forty (40) hours of executive leave per year at the beginning of the calendar year. The City Manager may identify exempt positions which, in the City Manager's discretion, warrant the award of additional executive leave because of the nature of the work, such as frequent night meetings, weekend work, or other ongoing unusual circumstances that cause the position to work significant hours above and beyond forty per work week (excluding normal callback duties). In such cases, the City Manager may prospectively award up to forty (40) additional hours of executive leave per year (not to exceed a total of eighty (80) hours).
- 6.12.2 Executive Leave is granted in recognition of exemplary and extraordinary service and is intended to provide for occasional paid days off for recuperation without reducing an employee's accrued vacation. It must be taken in increments of no less than four (4) consecutive hours.
- 6.12.3 Similar to vacation leave, the employee should submit a leave request to their supervisor and receive approval, prior to taking executive leave. Requests may be denied due to City or department operational needs.
- 6.12.4 Executive Leave may not be used to substitute for sick leave unless all sick leave has been exhausted.
- 6.12.5 Executive Leave will not carry forward from one calendar year to the next and will not be cashed out to the employee upon termination of employment or any other



circumstance. The full annual amount of executive leave will be granted at the beginning of each calendar year (or a prorated amount granted to new employees that start after the first of the year).

- 6.12.6 Employees are not entitled to use Executive Leave or receive payment in lieu thereof upon separation from service.

### **6.13 Bereavement Leave**

Bereavement leave with pay may be taken for the death of an immediate family member, not to exceed three (3) days. For purposes of this Bereavement Leave Policy, "immediate family" shall mean spouse, registered domestic partner, child (biological, adoptive, foster, step-child or child for whom the employee stands in loco parentis, is a legal guardian for, or is a de facto parent), parent (including the same relationships as set forth for "child" above), sibling, aunt, uncle, niece, nephew, grandparent and grandchildren (including all step or in-law relations for the above). No more than six (6) days of bereavement leave may be taken in a calendar year.

### **6.14 Holidays**

- 6.14.1 Employees will receive paid time off, at their regular rate of pay, for the following days, recognized as holidays by the City:

|                               |  |
|-------------------------------|--|
| New Year's Day                | January 1                                |
| Martin Luther King's Birthday | 3rd Monday in January                    |
| President's Day               | 3rd Monday in February                   |
| Memorial Day                  | Last Monday in May                       |
| Juneteenth                    | June 19                                  |
| Independence Day              | July 4                                   |
| Labor Day                     | 1st Monday in September                  |
| Veteran's Day                 | November 11                              |
| Thanksgiving Day              | 4th Thursday in November                 |
| Native American Heritage Day  | Friday after Thanksgiving                |
| Christmas Day                 | December 25                              |
| Floating Holiday              | (must be taken within the calendar year) |

- 6.14.2 Any holiday falling on Saturday will be observed on the preceding Friday. Any holiday falling on Sunday will be observed on the following Monday. The City Manager may, at their discretion, close City Hall up to two hours early and allow employees to finish their shifts up to two hours early on the last working day prior

to the following holiday time off: Thanksgiving, Christmas, and New Year's Day. Employees working on those days may claim eight hours worked on their timecards. Those that work a full eight hours are not entitled to flex time or additional compensation. Those that have the day off will be required to use eight (8) hours of leave.

- 6.14.3 In order to be paid for a holiday time off, the employee must be in paid status the working day immediately before the holiday and the working day immediately after the holiday. For example, if an employee is on leave without pay the day before or the day after a holiday, they will not be paid for time off for the holiday. As another example, a new employee's first day of employment cannot be a paid holiday.
- 6.14.4 Except as otherwise provided herein, regular non-exempt employees who are required to work on the day a holiday is observed by the City (i.e., the day on which the City Hall offices are closed for the holiday), will receive the holiday pay and be paid premium pay equal to two (2.0) times the employee's regular rate of pay for time worked on the observed holiday. Notwithstanding the foregoing, if an employee is normally scheduled to work either Saturday and/or Sunday, and a holiday falls on that weekend day (and is therefore observed by the City on a Friday or Monday), the employee shall receive the actual holiday off in lieu of the observed holiday. In such case, if the employee is required to work the actual holiday, the employee will receive the holiday pay and be paid premium pay equal to two (2.0) times the employee's regular rate of pay for working on the actual holiday but shall not receive additional holiday premium pay for working the day observed by the City as the holiday. (For example, if an employee is scheduled to work on a Christmas Day falling on a Sunday, the employee shall receive Christmas Day as a holiday and shall be paid holiday premium pay if required to work on Christmas Day. The employee shall not have the observed holiday on the proceeding Monday off nor shall the employee be paid the premium holiday pay for working that Monday). Employees who do not normally work on Saturday or Sunday and are called in to work on a holiday that falls on a Saturday or Sunday will be paid double time for working on that holiday. They will receive the paid holiday off on the preceding Friday or the proceeding Monday.
- 6.14.5 Temporary employees will be paid at their regular straight-time rate for hours worked on a holiday. For eligibility of Temporary employees for holiday pay, see Section 3.3.

- 6.14.6 New employees hired prior to July 1<sup>st</sup> will be entitled to a full floating holiday for that year. New employees hired after that date do not receive a floating holiday in the year hired. Regular part-time and job-share employees hired prior to July 1<sup>st</sup> will be entitled to a prorated number of floating holiday hours for that year, based on their normal work schedule in relation to a full-time schedule. Floating holidays must be used in the calendar year in which they are credited; floating holidays do not carry over from calendar year to calendar year and are not cashed out to the employee upon termination of employment for any reason.

## **6.15 Religious Holidays**

- 6.15.1 Each employee shall be entitled to up to two (2) unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or organization. An employee, in consultation with the employee's department director, may select the days on which the employee desires to take the two unpaid holidays; provided that such holidays are taken in a manner consistent with the purposes of this leave. Employees may use their accrued vacation leave, floating holiday, compensatory time, or leave without pay in connection with these otherwise unpaid holidays. Requests for a religious holiday should be submitted in writing to the employee's department director as far in advance as possible, and in any event not less than four (4) weeks prior to the proposed holiday. Requests for such holidays shall be considered on a case-by-case basis, based on the specific objective facts and circumstances presented at the time of the request. The department director may deny an employee's religious holiday request if, in the department director's discretion, it would unduly disrupt operations or otherwise impose an undue hardship for the City. For purposes of this policy, "undue hardship" shall have the same meaning as established by rule of the Office of Finance Management, as codified in WAC 82-56-020. The religious holidays provided herein shall not carry over from one year to the next.

## **6.16 Parental Leave**

- 6.16.1 Purpose. The purpose of paid parental leave is to provide new parents with the opportunity to bond with their newborn or newly adopted children, which has a positive, lifelong impact on a child's development. The City encourages employees to take sufficient family time to maintain a healthy productive workforce.

- 6.16.2 Eligibility. Paid parental leave is available to all regular employees who have been employed with the City for at least six months of continuous services at the time of experiencing one of the following qualifying events:
- Birth of an employee's child; or
  - Adoption of a child who is 17 years old or younger. This provision does not apply to the adoption of a stepchild by a stepparent.
- 6.16.3 To the extent that an employee is eligible for and has not otherwise exhausted their leave under the Family and Medical Leave Act, FML shall run concurrently with parental leave under this policy.
- 6.16.4 All eligible employees will receive six weeks of paid parental leave regardless of their leave balances. An employee may then choose to take up to six more additional weeks of leave, either by using their other accrued paid leave reserves, or by taking leave without pay.
- 6.16.5 For the purpose of Parental Leave, employees are not required to exhaust their accrued paid leave before taking leave without pay; provided, that the City may, in its discretion, disallow the use of paid leave to extend parental leave beyond a total of 12 weeks if it determines that such extension will disrupt, interfere with, or compromise City operations. Additionally, an employee may choose to take less than six weeks of paid parental leave.
- 6.16.6 Regular part-time and job-share employees will receive parental leave on a pro-rata basis, based upon the percentage that their normal weekly schedule bears to a full-time, 40-hour work week. For temporary employee eligibility, see Section 3.3.
- 6.16.7 An employee who does not return to work for at least six months of continuous service following the last date that parental leave is used will be required to reimburse the City an amount equal to the paid parental leave benefits received by the employee. By accepting paid parental leave, the employee acknowledges this condition and authorizes the City to deduct from their final paycheck any reimbursement amount owed by the employee pursuant to this policy. To the extent that the employee's final paycheck is insufficient to repay the parental leave benefits in full, the employee shall promptly remit the remaining balance owed to the City. The City Manager shall have the discretion to approve a reasonable installment payment plan for this purpose.

- 6.16.8 Paid parental leave will not be cashed out under any circumstance.
- 6.16.9 Paid parental leave must be used within 12 months of the qualifying event. After 12 months, any remaining unused paid parental leave time will be forfeited and no longer available.
- 6.16.10 An employee may use paid parental leave on an intermittent or part-time basis, as long as it is consistent with the department's operational needs, and it is approved in writing by the employee's department head prior to the leave. The department head shall have final discretion as to whether intermittent or part-time parental leave is consistent with the department's operational needs. In cases where intermittent or part-time parental leave is not approved, the employee must use paid parental leave in one consecutive increment.
- 6.16.11 An eligible employee will receive the full allotment of paid parental leave for each qualifying event. However, the birth or contemporaneous adoption of multiple children (e.g., twins) only qualifies as one event.
- 6.16.12 Paid parental leave is considered protected leave. An employee returning from parental leave shall be entitled to an equivalent position with the same pay benefits and working conditions as the position held by the employee prior to leave, unless the City's circumstances have so changed that the employee's position would have been eliminated even if the employee had not been on parental leave and no other equivalent positions are available (examples of this might include layoffs, budget cuts, department reorganizations, etc.).
- 6.16.13 During paid parental leave, the employee will continue to receive all health benefits and shall continue to accrue vacation and sick leave. If the parental leave is unpaid, the employee will not continue to accrue paid time off and shall not receive paid health benefits unless otherwise required by law.
- 6.16.14 Paid parental leave is non-supplemental to Washington Paid Family and Medical Leave Act monetary benefits.
- 6.16.15 Procedure for Requesting Paid Parental Leave.
  - Provide Notice. In all but a small minority of cases, employees will have advance notice of the need for paid parental leave. Except in the rare

circumstance when the need for leave is unexpected, at least 30 days' notice must be given to the respective department head. In the rare case when the need for leave is not foreseeable, you must provide notice as soon as possible.

- Discuss your anticipated leave duration and schedule with your immediate supervisor. If you plan to take intermittent or part-time leave, this must be approved by your department head in writing prior to the leave.
- Provide the City with appropriate documentation to certify your eligibility for the paid parental leave benefit.

6.16.16 The Finance and Administration Department will track data related to the use and costs of paid parental leave.

## **6.17 Leave for Domestic Violence Victims and Their Family Members**

6.17.1 Employees who are victims of domestic violence, sexual assault, or stalking may take reasonable unpaid leave from work to take care of legal or law enforcement needs or to get medical treatment, social services assistance, or mental health counseling, or to participate in safety/relocation planning.

6.17.2 Employees who are qualifying family members of a domestic violence victim are also eligible for leave under this policy. For purposes of this policy, the term "qualifying family member" means child, spouse/domestic partner, parent, parent-in-law, domestic partner parent, grandparent, or person the employee is dating.

6.17.3 Employees may elect to use accrued paid personal leave (vacation, sick leave, comp time) for this leave.

6.17.4 Employees wishing to take leave under this policy must give as much advance notice of the need for the leave as possible. Leave requests must be supported with one or more of the following:

- A police report indicating that the employee or the employee's qualifying family member was a victim;
- A court order providing protection to the victim;
- Documentation from a healthcare provider, advocate, clergy, or attorney; or
- The employee's written statement that the employee or employee's qualifying family member is a victim and needs assistance.

- 6.17.5 Upon return from this leave, employees will be reinstated to their same position or another position with substantially equivalent benefits and terms and conditions of employment.

## **6.18 Wellness Day Off**

- 6.18.1 Purpose. Employees who are eligible to receive a floating holiday and participate in the City's Annual Wellness Program during a calendar year will have an additional eight (8) hours added to their floating holiday leave balance for the following calendar year. The purpose of the Wellness Day Off is to offer employees an incentive that promotes a health-conscious work culture and incentivizes and recognizes employee participation in the City's Annual Wellness Program. The purpose of the Annual Wellness Program is to encourage healthy lifestyle choices, with the objective of increasing employee health and wellness and reducing the overall need for taking sick days.

- 6.18.2 Eligibility for Wellness Day Off. Only employees who are eligible to receive a floating holiday are eligible to earn a Wellness Day Off. Eligible employees must demonstrate their participation in the City's Annual Wellness Program throughout the calendar year. Such participation in the program shall be tracked by the employee on a form to be provided by either Human Resources or Payroll. The requirements listed on the form will be updated based on the AWC WellCity requirements for the coming year, but will include at least the following:

- Earn and Redeem AWC Wellness Reward (via Health Central).
  - For those eligible employees who are not covered under AWC Trust medical plan, the AWC wellness reward is not available and therefore will not be required as a condition to earning the Wellness Day Holiday; provided, however, that an alternative requirement (as approved by the Wellness Committee in conjunction with Human Resources and the Leadership Team) will be substituted and stated on the requirements form.
- Participation in Four (4) Wellness-Sponsored Activities.
  - Healthy Habits (two (2) required) events that take place over multiple days/weeks (examples include but are not limited to "Wondr" Program, Fall & Spring AWC Campaigns, or program run by EAP, AWC, or other program or activity as approved by Human Resources Manager (*the employee must request approval before beginning program*)).
  - Wellness Events (two (2) required) single day activities (examples include but are not limited to flu shots, blood pressure checks, benefit fair

participation, participating at a City of Kenmore Wellness event, or participating in a program run by EAP or AWC or other program as approved by Human Resources Manager (*employee must request approval before beginning program*).

- Any such other requirements that the Wellness Committee, in conjunction with Human Resources and the Leadership Team may determine necessary or appropriate.

Employees must submit their completed participation form to Human Resources no later than December 31 of each calendar year to be considered for the Wellness Day Holiday for the following year. Human Resources may request additional or clarifying information, at the City's discretion.

- 6.18.3 Use of Wellness Day Holiday. If earned, the Wellness Day Holiday must be used in the year issued and may not be cashed out or carried over into the following calendar year.



## **7 PERFORMANCE EVALUATIONS AND TRAINING**

### **7.1 Performance Evaluations**

- 7.1.1 To achieve the City's goals of training, developing, growing, and retaining the best qualified employee for every job, the City conducts annual performance evaluations for all positions. The City Manager is responsible for developing and implementing the City's performance evaluation program and delegates the conducting of performance evaluations to department directors and supervisors. The City Manager delegates responsibility for tracking, processing, and filing performance evaluations.
- 7.1.2 Each employee will generally receive a performance evaluation by the supervisor or department director annually on forms provided by the City. The performance evaluation process is intended to be collaborative, and the employee's input is encouraged. The annual evaluation will typically take place on the anniversary of the hire date, assuming successful completion of a work-trial period (usually six months after the date of hire). (See Section 3.5). The evaluation will objectively assess the employee's performance during the preceding twelve (12) month period. Results of the evaluation will be reviewed and discussed with the employee. The completed and signed evaluation will be filed in the employee's personnel record.
- 7.1.3 The completed evaluation form shall be reviewed by the City Manager prior to it being signed by the department director and the employee. The employee's signature indicates only that the department director discussed the evaluation with the employee but does not signify concurrence in the evaluation by the employee.
- 7.1.4 Only employees who have received an evaluation of satisfactory or above shall be considered for a merit increase or promotion in the applicable review year.
- 7.1.5 The evaluation becomes part of an employee's permanent personnel record and may be a factor in determining the employee's conversion to ongoing status beyond the working test period, whether the employee receives a wage increase, or is to be promoted, transferred, demoted, laid off, or terminated.

## **7.2 Training Policy**

- 7.2.1 The City seeks, within the limits of available resources, to offer training to augment or increase an employee's skills, knowledge and abilities directly related to City employment, to obtain or maintain required licenses and certifications, and to develop and grow its employees. Opportunities may include, but are not limited to: on-the-job training, in-house workshops, conferences, seminars sponsored by other agencies or organizations, and formal educational programs.

## **7.3 Higher Education Degree / Certificate Program**

- 7.3.1 Participation Guidelines. Regular full-time employees, and on a prorated basis, regular part-time employees and job-share employees (that work a minimum of 20 hours per week), who have completed their work trial period are eligible to participate in higher education classes contributing towards a degree program of benefit to the City. The following are guidelines for participation:

- The classes and degree and/or certification program shall be agreed upon by the employee and approved by the employee's department director and City Manager or designee. Reimbursement shall only be allowed when approved in advance of taking a course.
- The subject of the class, degree and/or certificate program must relate to the employee's present or future career path with the City.
- The City will pay a maximum of \$5,000 annually for employee's class tuition costs for a degree and/or certification program.
- The employee will receive full reimbursement of the cost (up to specified programs limits) of class tuition, books, and fees for classes directly related to the employee's present job position and/or current or prospective job duties, upon earning at least a 2.5 grade point equivalent or better. If a pass/fail system is used, a pass is required; if a grade system is used, a "C" or better is required. For grades of 2.0-2.4, the reimbursement amount will be reduced by 50%.
- The City will pay 50% of the tuition, books, and fees (up to \$5,000 annually) for the cost of classes that may not be directly related to the employee's present job position and/or current or prospective job duties but are required for completion of the degree and/or certification program and will be a general benefit to the City. A grade point of 2.5 or better (or "Pass" for pass/fail grade systems) is required. For grades of 2.0-2.4, the reimbursement amount will be reduced by 50%.

- The employee will be required to pay back any tuition, fees, or book costs if that employee voluntarily terminates employment with the City within two years of completion of any class according to the following scale: within 1-year 100%; after 1-year but prior to 2-years 50%.
- Course work will be taken during non-work hours. If this is not possible, the department director may approve flex-time work hours for the purpose of attending approved educational courses, providing that adequate department coverage is available. Travel time for classes not required by the City will not be considered work hours.
- A copy of the employee's grade and proof of payment is required for reimbursement upon course completion.

## **8 EMPLOYEE RESPONSIBILITIES AND CONDUCT**

### **8.1 General Policy**

- 8.1.1 All City employees are expected to represent the City to the public in a professional manner which is courteous, efficient, and helpful. Employees must maintain a clean and neat appearance appropriate to their work assignment, as determined by their position and department director.
- 8.1.2 Since the proper working relationship between employees and the City depends on each employee's on-going job performance, professional conduct, and behavior, the City has established certain minimum standards of personal conduct. Among the City's expectations are: basic tact and courtesy towards the public and fellow employees; adherence to City policies, procedures, safety rules, and safe work practices; compliance with directions from supervisors; preserving, maintaining, and protecting the City's equipment, grounds, facilities, and resources; and providing orderly and cost-efficient services to its residents.

### **8.2 Outside Employment and Conflicts of Interest**

- 8.2.1 Employees shall not, directly or indirectly, engage in any outside employment or financial interest which may conflict, in the City's opinion, with the best interests of the City or interfere with the employee's ability to perform their assigned City job. Examples include, but are not limited to, outside employment which:
- prevents the employee from being available for work beyond normal working hours, such as emergencies or peak work periods, when such availability is a regular part of the employee's job;
  - is conducted during the employee's work hours;
  - utilizes City telephones, computers, supplies, or any other resources, facilities, or equipment;
  - is employment with a firm which has contracts with or does business with the City; or
  - may reasonably be perceived by members of the public as a conflict of interest or otherwise discredits public service.
- 8.2.2 An employee who chooses to have an additional job, contractual commitment, or self-employment, may do so provided he/she notifies his/her immediate supervisor, and does not conflict with Section 8.2.

### **8.3 Political Activities**

- 8.3.1 City employees may participate in political or partisan activities of their choosing provided that City resources, time, and property are not utilized, and the activity does not adversely affect the responsibilities of the employees in their positions. Employees may not campaign on City time or in a City uniform or while representing the City in any way. Employees may not allow others to use City facilities or funds for political activities.
- 8.3.2 Any City employee who meets with or may be observed by the public or otherwise represents the City to the public, while performing his/her regular duties may not wear or display any button, badge, or sticker relevant to any candidate or ballot issue during working hours. Employees shall not solicit, on City property or City time, for a contribution for a political cause.
- 8.3.3 Except as noted in this policy, City employees are otherwise free to fully exercise their constitutional First Amendments Rights.

### **8.4 No Smoking Policy**

- 8.4.1 For health and safety considerations, the City prohibits smoking by employees in all City facilities, including City-owned buildings, vehicles, and offices or other facilities rented or leased by the City, including individual employee offices.
- 8.4.2 Smoking, if done outdoors, cannot be done during work time and must be at least 25 feet from any entrances, and also at least that far away from coworkers and all entrances and air intakes to buildings so that smoke stays outside of the buildings.

### **8.5 City Facilities and Equipment**

- 8.5.1 All City facilities, equipment, computers, tools, assets, and services shall be for official use only. All employees should understand and be aware that they have no right to or expectation of privacy with respect to the employee's use of the City's facilities or City-provided equipment, supplies, and programs, including but not limited to computer, voice mail, email, and the Internet. All information contained on City provided equipment, supplies, and programs remain at all times the exclusive property of the City, and the City may monitor and review such information at any time, in its sole discretion.
- 8.5.2 For the safety of the employees and/or the welfare of the City, the City may search and inspect both City property and personal items brought onto City

property, which includes owned and leased facilities, surrounding grounds, and parking areas (but excludes employee personal vehicles, except as set forth in Policy 8.17.6). Refusal to cooperate in a search, inspection, or investigation may result in disciplinary action, up to and including termination. City property eligible for search shall include, but is not limited to: individual lockers, desks, filing cabinets, and computers.

## **8.6 Electronic Usage**

- 8.6.1 As a public employee, employees should assume that anything they generate, or any electronic communications they have via any City owned and/or provided equipment, supplies, and programs is/are subject to public disclosure and therefore tailor their usage of the City's equipment, supplies, and programs accordingly.
- 8.6.2 All information stored on and/or transmitted by City-provided equipment, supplies, and programs always remain the exclusive property of the City, and the City may monitor and review such information at any time.
- 8.6.3 The City's computer, voice mail, text mail, cell phone, and Internet systems are the exclusive property of the City, and the use thereof should be limited to City business and purposes. Occasional, incidental, and brief personal use of the City computers and phone system will be allowed so long as such use occurs during non-work time, is not excessive, does not interfere with the employee's or others' work duties, is not for personal profit or for the profit or benefit of a third party, and otherwise does not violate any City policy or work rule.
- 8.6.4 Unacceptable and/or inappropriate non-work-related activities, including the downloading, viewing, or sending of insulting, disruptive, offensive, derogatory, profane, or discriminatory messages are strictly prohibited. Examples of forbidden transmissions include, but are not limited to: sexually explicit messages, cartoons or jokes, sexual propositions or love letters, ethnic or racial slurs, or any other message that can be construed to be harmful to morale, harassment, or disparagement of others based on their sex, race, age, national origin, religion, creed, sexual orientation, gender identity or expression, marital status, disability, or any other class protected by law.
- 8.6.5 All system passwords and encryption keys must be made available to the City. Employees are prohibited from generating unauthorized passwords or encryption keys on their computers. The creation of unauthorized password-

protected files will be grounds for disciplinary action, and any files protected by unauthorized password or encryption keys will be subject to review by the City. Employees are further prohibited from using others' authorized passwords or keys encryption to gain access to files to which the employee has not been given access.

- 8.6.6 Using City owned and/or provided equipment, supplies, and programs to solicit outside business ventures for personal, political, or religious uses is strictly prohibited.
- 8.6.7 No software or files including but not limited to shareware, freeware, patches, or demos are to be downloaded to City equipment without prior written permission from the Finance & Administration Director or their designee.
- 8.6.8 Any abuse of the privilege to access and use the City electronic systems may result in immediate loss of such privilege and may result in disciplinary action.

## **8.7 Vehicle Usage**

- 8.7.1 The City provides vehicles for certain business use to allow employees to drive on City business and to reimburse employees for business use of personal vehicles according to the guidelines below.
- 8.7.2 Employees operating a City vehicle or their own vehicle for City business must always hold a valid Washington State Driver's License. For employees who drive on City business, the City reserves the right to periodically verify such employee holds a valid driver's license and to request from the employee and/or appropriate governing agency a copy of the employee's current driving abstract (Motor Vehicle Report). Employees who drive on City business are required to promptly inform their supervisor of any changes that may affect either their legal ability to drive or their continued insurability.
- 8.7.3 Employees operating their own vehicle for City business must carry automobile liability insurance for bodily injury and property damage per Washington State minimum requirements as currently set forth in Chapters 46.29 and 46.30 RCW as may be amended from time to time. Employees should consult with their personal insurance agent to determine whether a special endorsement for Business Use is appropriate or necessary in connection with their use of their personal vehicle for City business. The City may require the employee to provide

proof of such insurance upon initial employment and/or assumption of driving duties and periodically thereafter as requested by the City.

- 8.7.4 Employees may not drive any vehicles for City business without prior approval of their supervisor.
- 8.7.5 Employees must not drive and must promptly notify their immediate supervisor and/or request an accommodation when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes but is not limited to circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of injury, illness, or medication. In the case of medication, an employee should consult with the employee's medical treatment provider or pharmacist to determine whether the medication may impact or impair the employee's ability to safely operate a vehicle and must promptly notify their immediate supervisor if the medication impairs the employee's ability to safely drive.
- 8.7.6 Employees who drive a vehicle on City business must exercise due diligence, drive safely, and maintain the security of the vehicle and its contents. As required by Washington State law, seat belts must always be worn while driving or riding in a City vehicle or on City business.
- 8.7.7 Employees are strictly prohibited from using cellular phones while operating a motor vehicle (this includes talking, texting, emailing, and/or browsing the internet). Employees should safely pull over prior to using a cell phone for any purpose. Employees are also responsible for any driving infractions or fines as a result of their driving.

## **8.8 City Credit Cards**

Use of City credit cards or credit accounts for personal purchases is prohibited. If this occurs, disciplinary action up to and including termination of employment will be implemented as recommended by the department head or supervisor and determined by the City Manager or his/her designee.

## **8.9 Bulletin Boards**

Information of special interest to all employees is posted regularly on the City bulletin boards. Employees may not post any information on these bulletin boards without the authorization of the City Manager or Human Resources Manager.



## **8.10 Contact with News Media**

The City Manager, communications specialist, or designated department directors shall be responsible for all official contacts with the news media during working hours, including answering questions from the media. The City Manager or department director may designate specific employees to give out procedural, factual, or historical information on particular subjects.

## **8.11 Safety**

- 8.11.1 Every employee is responsible for maintaining a safe work environment and for following City safety rules. Each employee shall promptly report all unsafe potentially hazardous conditions to his/her supervisor. The City will make every effort to remedy problems as quickly as possible.
- 8.11.2 In case of an accident involving a personal injury, regardless of how serious, employees shall immediately notify their supervisor, department director, or the City Manager.
- 8.11.3 Safety Committee. The City requires a Safety Committee made up of City employees. The Committee is constituted and operates according to Washington Administrative Code 296-800-130, 13020, and 13025.
- 8.11.4 Safety Apparel. The City will provide safety apparel and Personal Protective Equipment (PPE) in accordance with applicable state and federal requirements. This may include but is not limited to, safety glasses, protective gloves, ear protection, masks, and hard hats. PPE will be provided to employees on an as-needed basis, subject to inspection and replacement at the discretion of a supervisor. Safety apparel and PPE is property of the City and shall be returned upon separation.
- 8.11.5 Field Employee Uniform Policy. Employees working in the field are representatives of the City. So that our staff who are working in the field will be recognizable as City employees and look professional, the City will provide full-time regular field employees with certain uniform items on an annual basis. Personnel who spend the majority of their day working outdoors and/or performing physical labor will wear the designated uniform as determined by the Department Head. Field employee uniforms will include above the waist items, below the waist items, and safety footwear. Uniformed employees may use the annual allowance to purchase uniform items authorized by the City. These items

may be purchased in quantity by the City and issued to employees at cost against the annual uniform allowance per policy. If an employee spends their maximum allowance and requests additional items, these may be purchased at the employee's expense.

8.11.5.1 Defined Uniform and Annual Allowances:

|   |          |
|---|----------|
| Above the waist uniform (shirts, sweatshirts, etc.) | \$250.00 |
| Below the waist uniform (pants)                     | \$250.00 |

If an employee spends less than the above-the-waist allowance, they may use the remaining amount toward the below-the-waist allowance; and vice versa.

8.11.5.2 Safety Footwear: Designated field employees are required to wear sturdy-soled work boots made of leather or equally firm material, with sturdy impact resistant toe. Employees are required to obtain approval from their supervisor before purchasing below the waist uniform and footwear items. The annual safety footwear allowance is available only to those employees designated by the department director.

|                                  |          |
|----------------------------------|----------|
| Annual Safety Footwear Allowance | \$350.00 |
|----------------------------------|----------|

8.11.5.3 The City Manager may, at the City Manager's discretion, annually increase the uniform and footwear allowances in this policy by up to the same percentage as the annual cost-of-living wage increase granted to employees (see Section 4.3.8). Such increase, if given, shall be prospective and not retroactive.

8.11.3.4 Newly hired field employees will be provided four uniform shirts upon hire; the final complement of uniform will be available after 90 days.

8.11.3.5 Employees are expected to wear clean, presentable uniforms while at work. Employees must launder uniforms on their own time; however, the City's washer and dryer may be used for uniform items. The City does not pay for or reimburse dry cleaning or other laundering service costs.

- 8.11.3.6 Seasonal Employees: The City will provide full time seasonal field employees with all necessary PPE items as well as five (5) logo T-shirts, two pairs of pants, and footwear as needed for the position.

## **8.12 Substance Abuse**

- 8.12.1 The City is committed to protecting the safety, health, and well-being of its employees, the public it serves, and all people who come into contact with the City and the services it provides. Drug and alcohol abuse pose a direct and significant threat to this goal and to the goal of providing a productive and efficient work environment in which all employees have an opportunity to reach their full potential. Accordingly, the City is committed to assuring a drug-free work environment for all its employees.
- 8.12.2 The City strictly prohibits the use, purchase, possession, sale, conveyance, distribution, and manufacture of illegal (whether under federal and/or state law) drugs, intoxicants, controlled substances, and/or drug paraphernalia associated with illegal drug use while on the job, while on City property, while operating City vehicles, or while otherwise representing the City. The City further prohibits employees from being under the influence of alcohol (defined as having an alcohol concentration level of 0.04 or greater) or controlled substances (any detectable trace in the body system) while on duty. This policy applies to all City employees.
- 8.12.3 Prescription medications or nonprescription medications are not prohibited when taken in accordance with a lawful prescription, as applicable, and consistent with standard dosage recommendations. Prescription medication means a drug or medication lawfully prescribed under both federal and state law by a physician or other health care provider licensed to prescribe medication for an individual and taken in accordance with the prescription; but specifically excludes, without limitation, medical marijuana, which remains a controlled substance prohibited by federal law. Employees who are taking a prescription or over-the-counter medication that may impair their ability to perform their duties safely and effectively must notify their supervisor and should provide written notice from their physician or health care provider with respect to the effects of such medication. The City may, at its discretion, send an employee home if the employee appears impaired by the use of prescription and/or over-the-counter medications and such impairment impacts the employee's ability to safely and/or effectively perform his or her duties.

8.12.4 City employees who are assigned primary on-call or stand-by duty are expected to immediately respond to a City on-call request and perform City business. Assigned primary on-call or stand-by personnel may not report for duty and conduct City business when their performance may be impaired due to alcohol or drug use. Accordingly, assigned primary on-call or stand-by personnel must refrain from using alcohol or drugs while on-call or stand-by duty.

8.12.5 All City employees shall be subject to pre-employment, reasonable suspicion, post-accident, return to duty, and follow-up drug testing, as follows:

- Pre-Employment. Employees hired into a safety-sensitive position or a position requiring the operation of commercial vehicles must pass a drug and alcohol test as a post-offer condition of employment with the City.
- Reasonable Suspicion. Where the City has reason to suspect that an employee has violated or is presently violating or is otherwise under the influence of alcohol or drugs, such employee may be required to immediately submit to an alcohol or drug analysis test. A referral for testing will be made on specific and objective facts and reasonable inferences drawn from these facts by supervisory personnel. Among other things, such facts and inferences may be based upon: (i) an employee showing signs of impairment, such as (but not limited to) difficulty in maintaining balance, slurred speech, inability to visually focus, or otherwise appearing unable to perform assigned work in a safe and satisfactory manner; (ii) the smell of alcohol or illicit drugs on the employee's breath or person; (iii) abnormal conduct or appearance or erratic behavior while at work or a significant deterioration of work performance; and/or (iv) a report of alcohol or other drug use provided by a reliable and credible source. Failure to comply with reasonable suspicion testing requirements will be grounds for disciplinary action, up to and including termination.
- Post-Accident. Following an accident involving a City vehicle or City equipment, the driver/operator of such vehicle or equipment is required to submit to an alcohol and drug test when (1) the driver receives a citation under state or local law for a moving traffic violation; (2) an injury or fatality occurs as a result of the accident; (3) the accident results in damage to one or more vehicles or equipment which requires the removal of the vehicle/equipment by towing or otherwise is estimated to exceed \$2,000; or (4) the City Manager or designee deems it appropriate under the particular circumstances. Testing shall occur as soon as possible and must occur within eight (8) hours after the accident for alcohol testing and 32 hours after

the accident for drug testing. An employee required to take a post-accident alcohol test may not use alcohol for eight (8) hours following the accident, or drugs for thirty-two (32) hours following the accident, or until a post-accident test is given, whichever comes first. An employee who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with testing or results of testing. Failure to comply with post-accident testing requirements will be grounds for disciplinary action, up to and including termination.

- **Return to Duty.** Employees who have violated this policy, including those who have tested positive on a drug or alcohol test, and who under the City's disciplinary policy can return to work, must test negative prior to being released for duty.
- **Follow-Up.** An employee who is referred for assistance that is related to alcohol misuse and/or use of drugs is subject to unannounced follow-up testing for a period not to exceed 60 months as directed by a substance abuse professional and the City. The number and frequency of follow-up testing will be determined by the substance abuse professional and the City but will not be less than six tests in the first 12 months following the employee's return to duty.

8.12.6 Employees who are directed to submit to a drug and/or alcohol test must promptly report to the testing agency—under most circumstances, this will mean that the employee must report for testing no later than one hour after having received notice of the testing. In reporting for testing, the employee must report to the nearest testing facility and may not make any detours or stops enroute to the testing facility. A City representative may accompany the employee to the testing facility, where the supervisor or department head deems it appropriate. The City retains a qualified third-party administrator as its service agent to provide and coordinate the drug and alcohol testing services referenced in this policy. Employees are expected to cooperate with the administrator and to comply with the directives issued by the administrator in administering and coordinating the tests required pursuant to this policy.

8.12.7 Employees who test positive for drugs may request a second test of the remaining portion of the split sample within 72 hours of notification of a positive test result by the medical review officer responsible for receiving and interpreting the drug test.

- 8.12.8 A refusal to take a drug and/or alcohol test as required by the City, an undue delay in reporting for testing as instructed by the City, and/or utilizing any means designed to “cheat,” adulterate, or substitute the sample or otherwise render a false negative report shall be deemed the equivalent of a positive result and an employee engaging or assisting in such measures shall be subject to disciplinary action, up to and including termination.
- 8.12.9 Violating this policy will subject the violating employee to discipline, up to and including discharge. At a minimum, employees who test positive for alcohol or drugs shall be immediately removed from safety sensitive functions and may be suspended without pay, pending further evaluation and recommendation from a substance abuse professional (SAP).
- 8.12.10 Employees who are found to have violated this policy but who are allowed to return to work under the City’s disciplinary process shall be required to first submit to an Employee Assistance Program (EAP) evaluation and shall receive a one-time opportunity to enter a treatment program, if so recommended by an SAP. Upon return to work, the employee will be required to accept, and comply with, the terms of a “last chance agreement” and will be subject to the follow-up testing requirements as set forth above.
- 8.12.11 The City considers drug addiction and alcoholism to be treatable diseases. Employees are encouraged to seek treatment voluntarily and to utilize the City-provided EAP before an alcohol or drug abuse problem affects their job performance or employment status and before they are asked to submit to a drug and alcohol test. All alcohol or drug inpatient and outpatient treatment programs paid through the City’s health care plan should be accessed through the EAP. The City will accommodate employees who voluntarily seek treatment for a drug or alcohol addiction before they are requested to submit to a drug and alcohol test and/or are otherwise the subject of an investigation and/or disciplinary action for a potential violation of this or any other policy or other performance issue(s). Assistance will be provided on a confidential basis. Employees are encouraged to “self report,” and their job status with the City will not be jeopardized as a result of such report; provided, the report is made prior to the City requesting a drug and alcohol test from the employee or otherwise initiating an investigation and/or disciplinary action into suspected policy violations or related performance issues. Any employee who self-reports under these guidelines will be given a sufficient opportunity to seek evaluation, education, and/or treatment to establish control over the employee’s substance

abuse problem. However, self-reporting employees will not be permitted to perform safety-sensitive functions until the City is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements recommended by an SAP or other drug and alcohol abuse evaluation expert. Prior to allowing an employee to return to safety-sensitive functions, the City shall require a return-to-duty test.

- 8.12.12 Employees are specifically notified that the passage of Initiative 502, which amends Washington state law effective December 6, 2012, to decriminalize the possession and private use of a limited amount of marijuana by persons over the age of 21, shall have no effect or impact upon this policy. Pursuant to the Controlled Substances Act of 1970, 21 U.S.C. § 801 et seq., “marijuana” remains a “Schedule I” controlled substance, and its possession and/or use is illegal under federal law. Employees should recognize and understand that the “legalization” of marijuana under state law (for both medical and recreational purposes) will not excuse or otherwise constitute a “defense” to a positive drug test administered by the City in accordance with this policy. A positive test for marijuana may constitute a violation of this policy and shall be grounds for disciplinary action, up to and including termination.

### **8.13 Commercial Driver’s Licenses**

- 8.13.1 Those employees who are required to operate commercial vehicles, and therefore are required to hold a commercial driver’s license (CDL), are subject to additional policies, restrictions, and requirements regarding their employment.
- 8.13.2 A job candidate hired into a position that requires a CDL will be required to submit to a post-offer, pre-employment drug and alcohol test. Initial employment is conditioned upon that person satisfactorily passing such test.
- 8.13.3 Additionally, if a job candidate is to be hired for a position that requires a CDL and has a prior commercial driver history, they must authorize a request from all former employers to release information regarding positive alcohol or drug tests and refusals to be tested for the past 2 years of employment. This information should be obtained before the person is employed by the City. If the information is not obtained by the anticipated hire date, and if the person has passed the pre-employment drug and alcohol test (as applicable), the person may be hired and the requested information must be obtained from the previous employer(s) within 14 calendar days of the date of hire. If the information is not received within the 14 calendar days, the person shall not be permitted to drive

commercial vehicles until the information has arrived. If the information does not timely arrive, or if the information obtained from a previous employer(s) indicates either a positive test or a refusal to be tested, or if the employee obstructs or interferes with the release of the information, the employee shall not be permitted to drive commercial vehicles and may be terminated.

- 8.13.4 CDL holders are also subject to random drug and alcohol testing, in accordance with USDOT guidelines.
- 8.13.5 CDL holders must also report accidents, traffic convictions, and/or license suspensions/revocations (whether on or off the job) in accordance with USDOT requirements. CDL holders are responsible for knowing, understanding, and complying with their licensing obligations. The City will perform an annual check of the status of each employee's CDL, as applicable.
- 8.13.6 In addition to the drug and alcohol policy set forth above, those employees who are required to have and maintain a CDL in order to perform their duties or who perform safety sensitive duties are further subject to the drug and alcohol testing requirements and regulations established by the United States Department of Transportation (USDOT) and its designated agencies. These regulations are generally explained in Appendix D. City employees holding a CDL or performing safety-sensitive duties will be subject to USDOT Drug and Alcohol Testing Regulations, 49 CFR Part 40. To the extent that the USDOT policy conflicts with the general policy set forth above, the USDOT policy shall govern employees holding a CDL.
- 8.13.7 Additionally, the City is registered with the Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse and shall comply with the Controlled Substances and Alcohol Use and Testing regulations set forth in 49 CFR Part 382. As part of these requirements, the City (or City's designated agent) shall automatically report to the Clearinghouse, any of the following events or occurrences:
  - A verified positive, adulterated, or substituted drug test result.
  - An alcohol confirmation test with a concentration of 0/04 or higher.
  - An employee's refusal to submit to a drug or alcohol test.
  - The City's actual knowledge (as defined by 49 CFR § 382.107) of:
    - An employee's pre-duty, on-duty, or post-accident use of alcohol as prohibited by 49 CFR §§ 382.207, .205, and .209.



- An employee's controlled substance use as prohibited by 49 CR § 382.213.
- Verification from a SAP that an employee has successfully completed the return-to-duty process.
- The employee's negative return-to-duty test.
- The City's report of completion of any required follow-up testing.

8.13.8 All employees are expected to read and understand the contents of this policy. Any questions regarding the policy should be directed to the Human Resources Manager.

## **8.14 Complaint Procedures**

8.14.1 The City recognizes that situations arise in which an employee feels that they have not been treated fairly or in accordance with City rules and procedures or evaluated correctly for performance. For this reason, the City provides its employees with procedures for resolving complaints.

8.14.2 Step 1: An employee should first try to resolve any problem or complaint with their supervisor within five (5) working days of the incident or evaluation.

8.14.3 Step 2: When normal communication between an employee and the supervisor is not successful, when the problem or complaint involves discrimination or harassment by the supervisor, or when an employee disagrees with the application of City policies and procedures or the performance evaluation, the employee should submit a written statement to the department director within three (3) working days. The department director will respond to the employee in writing within three (3) working days after meeting with the employee, if possible. The employee's written statement should contain:

- A description of the problem.
- A specific policy or procedure which the employee believes has been violated or misapplied, or the perceived evaluation oversight.
- The date and approximate time of the circumstances leading to the complaint; or the date when the employee first became aware of those circumstances; or the date and time of the evaluation.
- The steps taken by the employee to deal with the problem.
- The remedy sought by the employee to resolve the complaint.

- The written complaint shall be filed within five (5) working days of the occurrence leading to the complaint or of the time the employee becomes aware of the circumstances, or of the evaluation complained of.

8.14.4 Step 3: If the employee is not satisfied with the response from the department director, the employee may submit the problem, in writing, to the City Manager within three (3) working days of the response (or lack thereof) from the department director. The written complaint must contain, at a minimum:

- A description of the problem.
- A specific policy or procedure which the employee believes has been violated or misapplied, or the perceived evaluation oversight.
- The date and approximate time of the circumstances leading to the complaint; or the date when the employee first became aware of those circumstances; or the date and time of the evaluation.
- The steps taken by the employee to deal with the problem.
- The remedy sought by the employee to resolve the complaint.

8.14.5 The City Manager may meet with the parties, either individually or together, and will respond in writing to the aggrieved employee within three (3) days of the meeting. The City Manager's response and decision shall be final and binding.

8.14.6 Any complaint which is not noticed within the time limits established herein, or which is not timely taken to the next level of review, shall be considered settled on the basis of the last reply made and received in accordance with the provisions of this section.

8.14.7 The time limits prescribed in this section for the initiation and completion of the steps of the review process may be extended by the City or by mutual consent of the parties involved.

## **8.15 Reporting Improper Governmental Action and Protecting Employees Against Retaliation**

8.15.1 It is the policy of the City to:

- Encourage reporting by its employees, of improper governmental action taken by the City of Kenmore officers and employees; and
- Protect City employees who have reported improper governmental actions in accordance with the following policy and procedures. To so assure, the City

is adopting the following practices to pledge compliance with RCW Chapter 42.40, which is intended to assure local government employees protection and freedom from retaliation when disclosing improper governmental actions, protect legitimate employer interests by encouraging reporting to the local government body, and provide a speedy dispute resolution method.

#### 8.15.2 For the purposes of this policy:

- “Improper Governmental action” means any action by a City employee: (a) that is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's employment; and (b) is in violation of any federal, state, or local law or rule; is an abuse of authority; is of substantial and specific danger to the public health or safety; or is a gross waste of public funds.
- “Improper governmental action” does not include personnel actions, including, but not limited to, employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, re-employment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of civil service laws, alleged labor agreement violations, reprimands, or any action which may be taken under RCW Chapters 41.06 or 28B.16, or other disciplinary action except as provided in RCW Chapter 42.40.030.
- “Retaliatory action” means any adverse change in the terms and conditions of a City employee's employment that can be reasonably and causally connected with the employee's reporting of improper governmental action.
- “Emergency” means a circumstance that if not immediately changed may cause damage to persons or property.

#### 8.15.3 Procedures for reporting improper governmental actions. The City employee who becomes aware of improper governmental actions should:

- Bring the issue to the attention of an uninvolved department director.<sup>1</sup> If the employee reasonably believes there are no uninvolved department directors, the employee should bring the issue to the attention of the City Attorney.
- The employee shall submit a written statement or report to the uninvolved department director (or City Attorney if there are no uninvolved department

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<sup>1</sup> In the case of an emergency, when the employee believes that the damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action.

directors) stating in detail the basis for the employee's belief that an improper governmental action has occurred.

- The department director shall review the report with the City Attorney and the City Manager. The City Attorney and the City Manager will determine an Investigating Official. The Investigating Official may be a department director, Human Resources Manager, or an appropriate designee.
- The Investigating Official shall take prompt action to properly investigate the report of improper governmental action. The City employees involved in the investigation shall keep the identity of the reporting employee confidential to the extent possible under law. After an investigation has been completed, the employee reporting the improper government action shall be advised of a summary of the results of the investigation, except any personnel actions taken as a result of the investigation may be kept confidential (to the extent possible under law).
- Alternatively, City employees may report information about improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action if:
  - The employee reasonably believes that an adequate investigation was not undertaken by the City of Kenmore to determine whether an improper governmental action occurred;
  - Insufficient action has been taken by the City to address the improper governmental action; or
  - The improper governmental action is likely to recur.

8.15.4 City employees who fail to make a good faith attempt to follow the above procedures in reporting improper governmental actions shall not receive the protection provided in these procedures.<sup>2</sup>

8.15.5 Protection against retaliatory action. City employees are prohibited from taking retaliatory action against a City of Kenmore employee because they have, in good faith, reported an improper governmental action in accordance with these policies and procedures.

8.15.6 Employees who believe that they have been retaliated against for reporting an improper governmental action should:

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<sup>2</sup> In the case of an emergency, when the employee believes that the damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency with the responsibility for investigating the improper action.

- Advise their supervisor or other department director or the City Manager in writing within thirty (30) calendar days after the occurrence of the alleged retaliatory action. The person receiving the report shall take appropriate action to investigate and address complaints of retaliation within thirty (30) calendar days from the date notice was given to the City by the employee. If all the above persons are involved in the alleged retaliation, the employee may direct this to the City's Hearing Examiner or the City Attorney.
- If the investigation does not satisfactorily resolve the employee's complaint that they have been retaliated against in violation of these policies, the employee may obtain protection under this policy and pursuant to State law by providing a written notice, within sixty (60) calendar days after receipt of the outcome of the investigation, to the City Council which specifies the:
  - Alleged retaliatory action; and
  - Relief requested.
- After receiving either the response from the City Council or thirty (30) calendar days after the delivery of the charge to the City Council, the employee may request a hearing before a State Administrative Law Judge to establish that a retaliatory action occurred and to obtain appropriate relief provided by law. An employee seeking a hearing should deliver the request for a hearing to the City Manager within the earlier of either fifteen (15) calendar days of receipt of the outcome of the City Council investigation to the charge of retaliation or forty-five (45) calendar days of delivery of the charge of retaliation to the City Council for response.
- Upon receipt of the request for hearing, the City Manager shall apply, within five working days, to the State Office of Administrative Hearings for an adjudicative proceeding before an Administrative Law Judge, Office of Administrative Hearings.
- If a determination is made that retaliatory action has been taken against the employee, the Administrative Law Judge may, in addition to any other remedy, impose a civil penalty personally upon the retaliator.
- The City of Kenmore will consider any recommendation provided by the Administrative Law Judge that the retaliator be suspended with or without pay or dismissed.

8.15.7 The City Manager is responsible for implementing the City policies and procedures for:

- Reporting improper governmental action; and
- For protecting employees against retaliatory actions.

- This includes ensuring that this policy and these procedures are permanently posted where all employees will have reasonable access to them and are made available to any employee upon request and are provided to all newly hired employees.

8.15.8 Directors, managers, and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. Violations of this policy and these procedures may result in appropriate disciplinary action.

8.15.9 Assistance with Whistleblower Claims. Employees with questions regarding how to file a whistleblower claim should refer to <https://sao.wa.gov/report-a-concern/how-to-report-a-concern/whistleblower-program/whistleblower-faqs/>.

## **8.16 Workplace Violence**

8.16.1 The City is committed to serving a wide range of individuals within its jurisdictional boundaries. In providing services to the City's many customers, City employees may on occasion be placed in situations in which they are confronted with hostile, violent, or threatening behavior. The City values its employees and residents and, with this policy, affirms its commitment to providing a workplace and facility that is free from violence.

8.16.2 The City may, on occasion and in its discretion, provide crime prevention information to employees and address security issues involving the workplace and City facilities.

8.16.3 Employees in many departments deal with customers and other members of the public who are distressed and who may make threats or commit acts of violence. It is also possible a violent act or threat may be made by an employee's family member or acquaintance towards a City employee. It is also possible that a threat or act of violence may be made by an employee of the City.

8.16.4 Importantly, the City will not tolerate violent acts or threats of any kind, whether by customers, family members, other members of the public, or City employees. If an employee is the recipient of or a witness to any act or threat of violence, the employee must notify the employee's department director or the City Manager, regardless of the perceived "seriousness" of the act or threat. The reporting of an act or threat of violence is not discretionary; employees failing to report a known incident of violence and thereby violating this policy shall be subject to disciplinary action up to possible termination.

- 8.16.5 Upon receiving a report of a violent act or threat that affects the workplace or a City employee, the City will investigate the incident and undertake all measures it deems appropriate to respond to the incident and to protect potentially affected employees. Some situations may require the intervention of local law enforcement agencies. In other situations, the City may deem it appropriate to provide support and guidance to employees so that threats or acts of violence can be recognized and prudently addressed. The City will promptly respond to all reported incidents of violence by undertaking those measures it deems appropriate.
- 8.16.6 The City Manager is charged with the administration of workplace violence prevention measures and responses. Department heads and department directors are responsible for ensuring this policy is implemented in their respective departments and that the uniqueness of their departments is addressed through procedures and training. Each supervisor and manager makes safety a priority.
- 8.16.7 Employees should learn to recognize and respond to behaviors by potential perpetrators that may indicate a risk of violence. Employees are to also place safety as the highest concern. The City may from time to time train its employees on workplace safety issues to reduce workplace violence.

## **8.17 Weapons Prohibited**

- 8.17.1 City employees are prohibited from possessing firearms or any other dangerous weapons of any type in the workplace, City vehicles, City job sites, or other facilities owned and/or managed by the City. This prohibition applies even though an individual may be licensed in their private capacity to carry a concealed weapon.
- 8.17.2 For purposes of this policy, a “firearm” is generally defined as any device designed to expel a projectile by means of an explosion and expanding gases. “Dangerous weapons” shall generally include any object carried for the purpose to injure or intimidate others.
- 8.17.3 Prohibited dangerous weapons include but are not limited to:
- All firearms of any nature, whether pistols, revolvers, rifles, semi-automatic or automatic weaponry, or any other type of gun.

- Dangerous knives (defined as any knife or dagger, regardless of its type, having a blade length greater than three (3) inches measured from the point where the knife blade meets the knife handle to the tip, and including any Balisong (also known as butterfly) knife or switchblade knife. Small, standard pocketknives (such as a Swiss Army knife) are not considered a “dangerous knife.”
- Explosive devices of any kind.
- Slingshots, nunchaku sticks, and the like.
- Clubs, sand clubs, throwing stars, and the like.
- Metal knuckles.
- Air guns, pellet guns, blow guns.
- Any replica or other item that simulates any of the above items.

8.17.4 The “workplace” shall mean the City’s administrative or operation offices, spaces, or facilities, including but not limited to City Hall, the Hangar, Senior Center, Public Works Operations Center, Public Works yard, and City job sites. It also includes City vehicles and City parking lots.

8.17.5 This policy shall not apply on duty to law enforcement personnel who are authorized to carry weapons in connection with their law enforcement duties. This policy also does not apply to tools which are authorized by the City and issued to employees in connection with their official duties, nor does this policy apply to kitchen utensils and tools used for food preparation and consumption on City premises. Additionally, the City Manager may, in their discretion, authorize field employees to carry pepper spray or similar compound in their vehicles or on their person when such employees’ duties require individual contact with unknown third parties. Any employee wishing to carry pepper spray or a similar compound must obtain approval from the City Manager prior to doing so. When so approved, employees will generally be required to either carry such compound securely on their person or store such compound in a locked vehicle or locker while present in the workplace.

8.17.6 This policy does not apply to employees’ personal vehicles parked on City property unless: the employee’s vehicle is used for work-related activities and the City needs to inspect the vehicle to ensure the vehicle is suited to conduct such activities; there is a reasonable belief that accessing the vehicle is necessary to prevent an immediate threat to human health, life or safety; the inspection is lawfully conducted by law enforcement officers; or the employee consents to an inspection of their vehicle based on probable cause that the



employee unlawfully possesses City property or a controlled substance in violation of federal law and the City's Drug and Alcohol Policy (where such consent is granted, the employee has the right to select a witness to be present for the inspection).

## 9 DISCIPLINE AND TERMINATION

### 9.1 Discipline

- 9.1.1 All employees are expected to exercise good judgment, loyalty, common sense, dedication, respect, and courtesy in the performance of their duties. The primary mission of every employee is to provide courteous, orderly, effective, and efficient delivery of services to the residents and customers of the City.
- 9.1.2 Acts, errors, or omissions which discredit the public service or impair the provision of effective and efficient services to the public may result in discipline, including termination.
- 9.1.3 The City Manager, department director, or supervisor, as appropriate, has full discretion and authority to impose disciplinary action in accordance with City policy and the circumstances of the particular case, and to deviate from such policies at the City Manager's sole discretion.
- 9.1.4 The following examples of the types of behavior which may result in discipline are offered here by way of example only, and not by way of limitation or exclusion:
- Violation of the City's substance abuse policies;
  - Violation of a lawful duty;
  - Insubordination;
  - Absence from work without first notifying and securing permission from the supervisor;
  - Habitual absence or tardiness;
  - Unsatisfactory job performance, as determined by the City;
  - Conviction of a felony or a misdemeanor involving dishonesty or moral turpitude;
  - Acceptance of fees, gratuities, or other valuable items in the performance of the employee's official duties for the City;
  - Refusal, inability, or failure to perform the duties of the assigned job;
  - Violation of rules, duties or roles imposed by this manual, or by any other City rule, regulation, or administrative order;
  - Violation of the City's non-harassment / non-discrimination policies;

- Violations of safety rules or common safety practices; personal conduct at work which is dangerous to others; failure to report on the job injuries or accidents promptly to employee's supervisor;
- Negligent or willful damage to the City's property, waste of supplies or equipment, theft; unauthorized possession or use of City property, equipment, or materials; theft of City property or property belonging to employees or customers;
- Discourteous treatment of the public or other employees; and
- Any other conduct that the City considers inappropriate.

9.1.5 The City may discipline or terminate employees for other reasons not stated above. Nothing in this policy modifies employees' at-will status.

9.1.6 In the event that discipline is necessary, the following types of disciplinary actions may be used, at the City's sole discretion, and need not be used in the order set forth below:

9.1.6.1 Verbal Counseling. A verbal counseling is a counseling session between the employee's supervisor and the employee on the subject of the employee's conduct and performance, or their failure to observe a rule, regulation, or administrative instruction. It is intended to improve the employee's performance by changing the employee's conduct, behaviors, attitude, habits, or work methods. Following the counseling session, the supervisor should document the oral warning, in writing in the employee's personnel file.

9.1.6.2 Reprimand. A reprimand is a formal written disciplinary action that may be used for misconduct, inadequate performance, repeated lesser infractions, or any other situations where warranted. Written reprimands are placed in the employee's personnel file.

9.1.6.3 Trial Work Period. An employee may be placed on trial work period after a verbal counseling and reprimand are provided. The City Manager must approve any trial work periods.

9.1.6.4 Suspension. A suspension is a temporary, unpaid absence from duty which may be imposed as a penalty for significant misconduct, repeated lesser infractions, or any other situations where warranted. A suspension is a severe disciplinary action which is made part of the

employee's permanent record. Suspensions with pay, where the employee is placed on administrative leave, may be utilized by a department director or the City Manager pending the results of an investigation or disciplinary action where the department director or City Manager determines that factors such as public confidence, the safety of the employee, or the efficient functioning of the City call for such a suspension.

## **9.2 Termination**

9.2.1 Employment with the City is "at-will," which means that the employment relationship can be terminated by the City or the employee at any time. The following are some situations that may result in an involuntary termination, at the City's sole discretion. These situations are by way of examples and not by way of any limitation or exclusion:

- During or at the end of the employee's work trial period.
- As a result of the disciplinary action.
- Due to loss of skills, certifications, or other conditions which would make the employee unfit for service.
- If the employee has a physical or mental impairment that prevents them from performing the essential duties of the employee's position and the employee cannot be reasonably accommodated in their current position. The City will also consider whether the employee has the skills and qualifications necessary to perform other work within the City and will review with the employee other vacant job positions for which the employee is qualified if/as they arise. The City will not create work but will seek to reasonably accommodate disabled employees within the City's work force. The City may require an examination at its expense performed by a physician of its choice. Failure to submit to such request may result in termination.

9.2.2 At-will employees may be terminated at any time, with or without cause and with or without prior notice.

9.2.3 City Manager Review. At-will employees serve at the pleasure of the City Manager. The City Manager will endeavor to review all disciplinary actions with the department director, but final action regarding discipline or discharge of an at-will employee shall be at the City Manager's sole discretion. There shall be no appeal of the City Manager's decision.

### **9.3 Pre-Termination Hearing**

In cases involving the involuntary termination of an employment relationship that is terminable only for cause, or where the reason for the termination has the potential to impugn the terminating employee's reputation in the community if made public, the City will conduct a pre-termination hearing. The pre-termination hearing serves as a check against mistaken decisions and to determine whether there is a reasonable presumption that the charges against the employee are valid and support termination. The City Manager's decision following any pre-termination hearing shall be final.

### **9.4 Layoff**

- 9.4.1 The City Manager may lay off employees for lack of work, budgetary restrictions or reorganization or restructuring of the work force at the City's sole discretion. Affected employees will be given as much notice as possible, with a minimum of fifteen (15) working days notice, before such layoff becomes effective. Every reasonable effort shall be made to transfer affected employees into other available positions for which they are qualified.
- 9.4.2 Whenever a layoff is anticipated, employees whose jobs may be affected should be notified of the situation and the available options as early as possible to allow them time to make the necessary arrangements.
- 9.4.3 Temporary employees performing similar work in the same department should be laid off before regular employees are affected.
- 9.4.4 In determining who is to be laid off, consideration will be given to individual performance and the qualifications required for remaining jobs. Seniority will be considered when performance and qualifications are estimated to be equal.
- 9.4.5 Options such as part-time work schedules, job sharing, and voluntary time off, furloughs, and/or pay reductions may be explored if, in the opinion of the department director or supervisor, such options are feasible and approved by the City Manager.
- 9.4.6 Employees who are laid off may be eligible to be re-employed if a vacancy occurs in a position for which they are qualified.

## **9.5 Resignation**

Employees who choose to resign from his/her employment with the City are required to provide at least two (2) weeks written notice to their immediate supervisor in order to be classified as having resigned in good status.

## **9.6 Severance Agreements**

The City Manager may, if they find it to be in the best interest of the City and in keeping with personnel practices and applicable state law, authorize severance payments and/or other benefits (including but not limited to costs of continuation of health care coverage), in an amount not to exceed \$40,000.00 per occurrence. Such severance payments shall be conditioned upon the receiving employee's execution of a Separation and Release Agreement, which shall include a waiver and release in favor of the City, along with other provisions recommended by legal counsel. Such Separation and Release Agreements shall not require City Council approval; provided, that the City Manager shall timely notify the Council of any such agreements.

## **APPENDIX A: ACKNOWLEDGEMENT AND DISCLAIMER**

### **CITY OF KENMORE PERSONNEL POLICY AMENDED MAY 2023**

#### **ACKNOWLEDGMENT AND DISCLAIMER EMPLOYEE COPY**

By execution, hereof, employee acknowledges that the City of Kenmore has provided him/her/them with a copy of the Personnel Policies of the City, and further that employee has read, understands and agrees to abide by terms and conditions of employment set forth therein.

Employee further understands and agrees that the Personnel Policy Manual does not constitute a contract for, or a guarantee of, employment with the City of Kenmore and does not bind the City to any consideration whatsoever other than payment and benefits for time actually worked or services performed.

The City reserves the right to modify, rescind, delete, or add to the provisions of this Personnel Policy Manual as the City deems necessary and appropriate. Employees will be notified of any changes to this Personnel Policy Manual as they occur. This Personnel Policy Manual supersedes all previous manuals, and any prior written and oral policies, statements, or understanding on the subjects set forth herein.

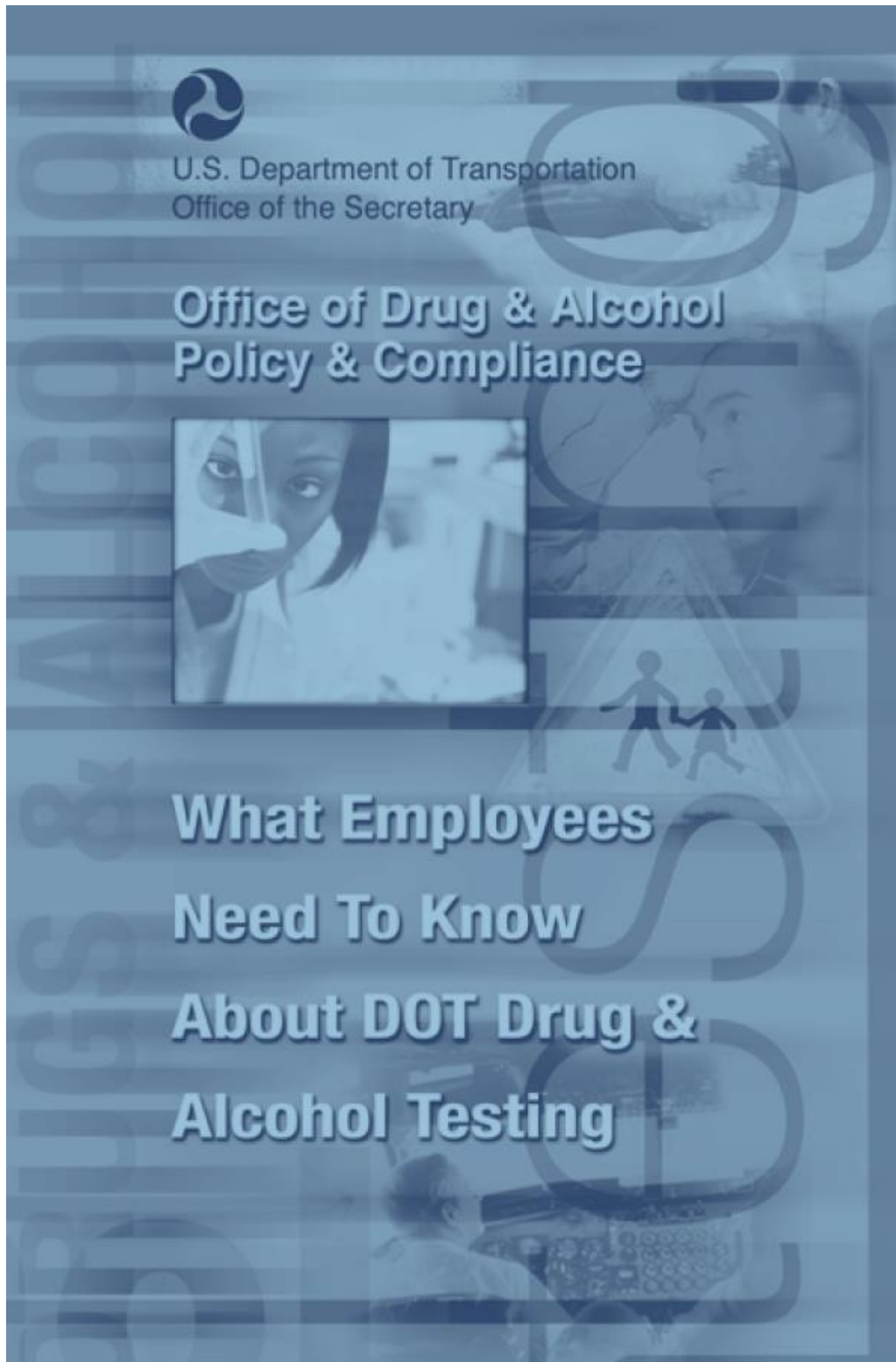
Employee further understands and agrees that employee's employment is at-will, which means that it can be terminated by the City or by the employee, with or without notice, and with or without cause.

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Employee Signature

Date

## APPENDIX B: DRUG & ALCOHOL TESTING POLICY





**Disclaimer**

This publication was produced by the U.S. Department of Transportation (DOT) to assist safety-sensitive employees subject to workplace drug & alcohol testing in understanding the requirements of 49 CFR Part 40 and certain DOT agency regulations. Nothing in this publication is intended to supplement, alter or serve as an official interpretation of 49 CFR Part 40 or DOT agency regulations. This publication is for educational purposes only.

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For questions, please contact DOT's Office of Drug & Alcohol Policy & Compliance at 202-366-DRUG (3784) or visit our website at [www.transportation.gov/odapc](http://www.transportation.gov/odapc).

**Originating Office**

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# **What Employees Need To Know About DOT Drug & Alcohol Testing**

U.S. Department of Transportation (DOT)

Office of the Secretary (OST)

Office of Drug & Alcohol Policy & Compliance (ODAPC)

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## What Employees Need To Know About DOT Alcohol & Drug Testing

Just entering the transportation industry? Performing tasks defined by the US Department of Transportation (DOT) as safety-sensitive, such as working on pipelines, driving a truck, operating a ferry or a train, or repairing an airplane? Then, you are subject to DOT workplace drug & alcohol testing. Here are the basics you need to know about DOT's program.

### *Who is subject to DOT testing?*

Anyone designated in DOT regulations as a safety-sensitive employee is subject to DOT drug & alcohol testing. What follows is an overview of what jobs are defined as safety-sensitive functions subject to testing.

|   |   |
|---|---|
| <b>Aviation</b><br>FAA                    | Persons that perform safety-sensitive functions, directly or by contract (including subcontract at any tier), for a part 119 certificate holder authorized to conduct part 121 or 135 operations; air traffic control facilities not operated by the FAA or under contract to the U.S. military; and all operators as defined in 14 CFR Section 91.147. The safety-sensitive duties include flight crewmember, flight attendant, flight instructor, air traffic controller, aircraft dispatcher, aircraft maintenance or preventative maintenance, ground security coordinator, aviation screeners and operations control specialist. See FAA regulations at 14 CFR Part 120.   |
| <b>Commercial Motor Carriers</b><br>FMCSA | Commercial Drivers License (CDL) holders who operate Commercial Motor Vehicles, 26,001 lbs. gvwr. or greater, or operate a vehicle that carries 16 passengers or more including the driver, or required to display a DOT placard in the transportation of hazardous material. <sup>1</sup> See FMCSA regulation at 49 CFR Part 382.   |
| <b>Maritime</b><br>USCG <sup>2</sup>      | Crewmembers operating a commercial vessel. See USCG regulations at 46 CFR Parts 4 & 16.   |
| <b>Pipeline</b><br>PHMSA                  | An employee who performs an operation, maintenance, or emergency-response function on a PHMSA regulated pipeline or liquefied natural gas (LNG) facility. See PHMSA regulations at 49 CFR Part 199.   |
| <b>Railroad</b><br>FRA                    | Persons who perform duties subject to the Hours of Service laws; such as, locomotive engineers, trainmen, conductors, switchmen, locomotive hostlers/ helpers, utility employees, signalmen, operators and train dispatchers.<br><br>In addition, a person who performs a maintenance-of-way/roadway worker function (as defined in 49 CFR Part 214) who are employees or contractors of a railroad, have a potential to foul the track, and perform a regulated function such as inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track, as well, flagman and watchmen/lookouts. See FRA Regulations at 49 CFR Part 219. |
| <b>Transit</b><br>FTA                     | Operators of revenue service vehicles when not in service, Operators of nonrevenue service vehicles when required to be operated by a holder of a commercial drivers' license, controlling dispatch or movement of revenue service vehicle, mechanics maintain a revenue service vehicle or equipment used in revenue service, and Fire armed security. See FTA regulations at 49 CFR Part 655.   |

Links to these regulations can be found on-line at [www.transportation.gov/odapc](http://www.transportation.gov/odapc).

<sup>1</sup> In some instances, states allow waivers from this qualification, such as operators of fire trucks and some farm equipment. Check with your state department of motor vehicles for more information.

<sup>2</sup> An agency of the U.S. Department of Homeland Security.

**Remember:** The tasks you actually perform qualify you as a safety-sensitive employee, not your job title. Also, some employees, like managers and supervisors, may be qualified for these jobs but not currently performing them. Do they have to be tested as well? In most cases, yes...if that employee may be asked at a moment's notice or in an emergency to perform a safety-sensitive job. Be sure to check industry specific regulations for further clarification.

### ***Why are safety-sensitive employees tested?***

The short answer is for the safety of the traveling public, co-workers and yourself. The longer answer is that the United States Congress recognized the need for a drug and alcohol free transportation industry, and in 1991 passed the Omnibus Transportation Employee Testing Act, requiring DOT Agencies to implement drug & alcohol testing of safety-sensitive transportation employees.<sup>3</sup>

Within DOT, the Office of the Secretary's Office of Drug & Alcohol Policy & Compliance (ODAPC) publishes rules on how to conduct those tests, what procedures to use when testing and how to return an employee to safety-sensitive duties. Encompassed in 49 Code of Federal Regulations (CFR) Part 40, ODAPC publishes and provides authoritative interpretations of these rules.

DOT agencies and the U.S. Coast Guard write industry specific regulations, spelling out who is subject to testing, when and in what situations. Industry employers implement the regulations that apply to them.

The benefit to all affected by DOT regulations is that each agency's regulations must adhere to DOT's testing procedures found at 49 CFR Part 40, commonly known as "Part 40." For example, you may work in the rail industry and later work in the motor carrier industry, but the procedures for collecting, testing and reporting of your tests will be the same under Part 40.

### ***What information must employers provide when I first begin performing DOT safety-sensitive functions?***

Depending on the DOT agency over-seeing your industry, your employer may be required to provide you with educational materials and a company policy that explain the requirements of DOT's drug & alcohol testing regulations and the procedures to help you comply. If you have not received this information, be sure to ask your employer about it.

### ***What conduct is prohibited by the regulations?***

As a safety-sensitive employee...

- You must not use or possess alcohol or any illicit drug while assigned to perform safety-sensitive functions or actually performing safety-sensitive functions.
- You must not report for service, or remain on duty if you...
  - Are under the influence or impaired by alcohol;
  - Have a blood alcohol concentration .04 or greater; (with a blood alcohol concentration of .02 to .039, some regulations do not permit you to continue working until your next regularly scheduled duty period);
  - Have used any illicit drug.

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<sup>3</sup> The Omnibus Act's testing requirements do not apply to PHMSA.

- You must not use alcohol within four hours (8 hours for flight crew members and flight attendants) of reporting for service or after receiving notice to report.
- You must not report for duty or remain on duty when using any controlled substance unless used pursuant to the instructions of an authorized medical practitioner.
- You must not refuse to submit to any test for alcohol or controlled substances.
- You must not refuse to submit to any test by adulterating or substituting your specimen.

Keep these in mind when preparing to report to work.

### ***What drugs does DOT test for?***

DOT drug tests are conducted only using urine specimens. The urine specimens are analyzed for the following drugs/metabolites:

- Marijuana metabolites
- Cocaine metabolites
- Amphetamines including methamphetamine, MDMA
- Opioids – codeine, heroin (6-AM), morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone
- Phencyclidine (PCP)

#### **Specimens Collected for Drug & Alcohol Testing\***

**Drugs:** Urine  
**Alcohol:** Breath & Saliva

\* The FRA requires blood specimens as part of their Post-Accident testing.

To learn more about the effects of these and other drugs visit the following sites:

- Drugs and Human Performance Fact Sheet. National Highway Traffic Safety Administration (NHTSA) [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov).
- Driving While You Are Taking Medications. National Highway Traffic Safety Administration (NHTSA) [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov).
- Drugs of Abuse. National Institute for Drug Abuse (NIDA) <https://www.drugabuse.gov/drugs-abuse>
- Drug Facts. National Institute on Drug Abuse (NIDA) <https://www.drugabuse.gov/publications/finder/t/160/drugfacts>
- Drug Fact Sheets. Drug Enforcement Administration (DEA) <https://www.dea.gov/druginfo/factsheets.shtml>

To learn about where to dispose of unused medicines go to:  
<https://takebackday.dea.gov>

### ***Can I use prescribed medications & over-the-counter (OTC) drugs and perform safety-sensitive functions?***

Prescription medicine and OTC drugs may be allowed.<sup>4</sup> However, you must meet the following minimum standards:

- The medicine is prescribed to you by a licensed physician, such as your personal doctor.
- The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of your duties.

<sup>4</sup> The FRA requires that if you are being treated by more than one medical practitioner, you must show that at least one of the treating medical practitioners has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.



**Best Practice:** To assist your doctor in prescribing the best possible treatment, consider providing your physician with a detailed description of your job. A title alone may not be sufficient. Many employers give employees a written, detailed description of their job functions to provide their doctors at the time of the exam.

- The substance is used at the dosage prescribed or authorized.<sup>5</sup>
- If you are being treated by more than one physician, you must show that at least one of the treating doctors has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.
- Taking the prescription medication and performing your DOT safety-sensitive functions is not prohibited by agency drug and alcohol regulations. However, other DOT agency regulations may have prohibitive provisions, such as medical certifications.

**Remember:** Some agencies have regulations prohibiting use of specific prescription drugs, e.g. methadone, etc.... If you are using prescription or over-the-counter medication, check first with a physician, but do not forget to consult your industry-specific regulations before deciding to perform safety-sensitive tasks. Also be sure to refer to your company's policy regarding prescription drugs.

### ***When will I be tested?***

Safety-sensitive employees are subject to drug or alcohol testing in the following situations:

- Pre-employment.
- Reasonable Suspicion/Cause.
- Random.
- Return-to-duty.
- Follow-up.
- Post-Accident.

#### **Pre-Employment**

As a new hire, you are required to submit to a drug test. Employers may, but are not required to, conduct alcohol testing.<sup>6</sup> Only after your employer receives a negative drug test result (and negative alcohol test result - if administered) may you begin performing safety-sensitive functions. This also applies if you are a current employee transferring from a non-safety-sensitive function into a safety-sensitive position (even if it is the same employer).

#### **Reasonable Suspicion/Cause**

You are required to submit to any test (whether drug, alcohol or both) that a supervisor requests based on reasonable suspicion. Reasonable suspicion means that one or more trained supervisors reasonably believes or suspects that you are under the influence of drugs or alcohol. They cannot require testing based on a hunch or guess alone; their suspicion must be based on observations concerning

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<sup>5</sup> While states may allow medical use of marijuana, federal laws and policy do not recognize any legitimate medical use of marijuana. Even if a state allows the use of marijuana, DOT regulations treat its use as the same as the use of any other illicit drug.

<sup>6</sup> Not every DOT agency requires a pre-employment alcohol test.

your appearance, behavior, speech and smell that are usually associated with drug or alcohol use.

### **Random**


You are subject to unannounced random drug & alcohol testing. Alcohol testing is administered just prior to, during or just after performing safety-sensitive functions. Depending on the industry specific regulations, you may only be subject to random drug testing.<sup>7</sup>

No manager, supervisor, official or agent may select you for testing just because they want to. Under DOT regulations, employers must use a truly random selection process. Each employee must have an equal chance to be selected and tested.

Just prior to the testing event, you will be notified of your selection and provided enough time to stop performing your safety sensitive function and report to the testing location. Failure to show for a test or interfering with the testing process can be considered a refusal.

### **Post-Accident**

If you are involved in an event (accident, crash, etc.) meeting certain criteria of the DOT agency, a post-accident test will be required. You will then have to take a drug test and an alcohol test.<sup>8</sup> You are required to remain available for this testing and are not permitted to refuse testing.

 **Remember:** Safety-sensitive employees are obligated by law to submit to and cooperate in drug & alcohol testing mandated by DOT regulations.

### **Return to Duty**

If you have violated the prohibited drug & alcohol rules, you are required to take a drug and/or alcohol test before returning to safety-sensitive functions for any DOT regulated employer. You are subject to unannounced follow-up testing at least 6 times in the first 12 months following your return to active safety-sensitive service. Return-to-duty tests must be conducted under direct observation.

### **Follow-up**

The amount of follow-up testing you receive is determined by a Substance Abuse Professional (SAP) and may continue for up to 5 years. This means the SAP will determine how many times you will be tested (at least 6 times in the first year), for how long, and for what substance (i.e. drugs, alcohol, or both). Your employer is responsible for ensuring that follow-up testing is conducted and completed. Follow-up testing is in addition to all other DOT required testing. All follow-up tests will be observed.

### ***How is a urine drug test administered?***

Regardless of the DOT agency requiring the drug test, the drug testing process always consists of three components:

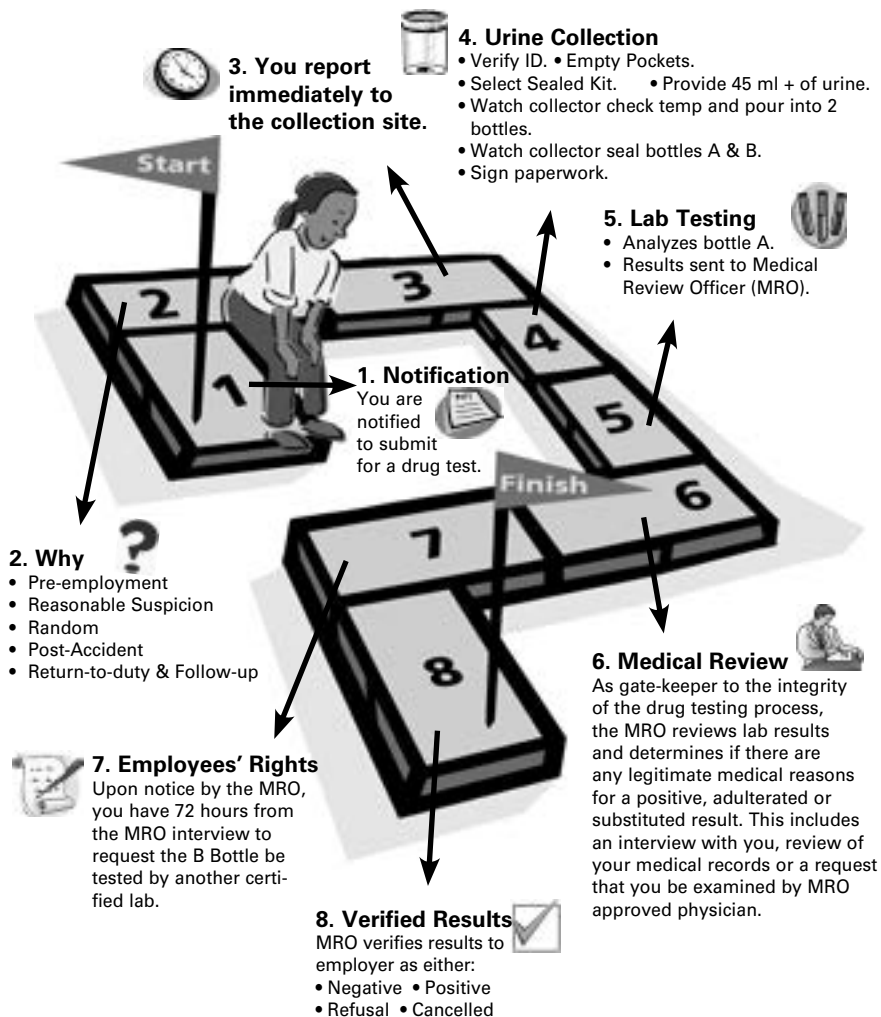
- The Collection. (49 CFR Part 40, Subparts C, D, E)
- Testing at the Laboratory. (49 CFR Part 40, Subpart F)
- Review by the Medical Review Officer. (49 CFR Part 40, Subpart G)

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<sup>7</sup> USCG & PHMSA do not perform random alcohol tests.

<sup>8</sup> In post-accident testing, the FRA requires a blood specimen for drug testing.

## Overview of DOT Drug Testing




What follows is a summary of the procedures for each step. For a more detailed account, please visit 49 CFR Part 40, which can be found in its entirety at [www.transportation.gov/odapc](http://www.transportation.gov/odapc).

### The Collection

During the collection process, a urine specimen collector will:

- Verify your identity using a current valid photo ID, such as driver's license, passport, employer issued picture ID, etc.
- Create a secure collection site by:
  - Restricting access to the site to only those being tested.
  - Securing all water sources and placing blue dye in any standing water.
  - Removing or securing all cleaning products/fluids at the collection site.
- Afford you privacy to provide a urine specimen.
  - Exceptions to the rule generally surround issues of attempted adulteration or substitution of a specimen or any situation where general questions of validity arise, like an unusual temperature.
- Ask you to remove any unnecessary garments and empty your pockets (you may retain your wallet).
- Instruct you to wash and dry your hands.
- Select or have you select a sealed collection kit and open it in your presence.
- Request you to provide a specimen (a minimum of 45 mL) of your urine into a collection container.
- Check the temperature and color of the urine.
- In your presence, pour the urine into two separate bottles (A or primary and B or split), seal them with tamper-evident tape, and then ask you to sign the seals after they have been placed on the bottles.

 **Remember:** Neither you nor the collector should let the specimen out of your sight until it has been poured into two separate bottles and sealed.

- Ask you to provide your name, date of birth, and daytime and evening phone numbers on the Medical Review Officer Copy (Copy #2) of the Federal Drug Testing Custody and Control Form (CCF).
  - This is so the Medical Review Officer (MRO) can contact you directly if there are any questions about your test.
- Complete necessary documentation on the "Test Facility Copy" (Copy #1) of the CCF to demonstrate the chain of custody (i.e. handling) of the specimen.
- Give you the Employee Copy (Copy # 5) of the CCF and may suggest you list any prescription and over-the-counter medications you may be taking on the back of your copy of the CCF (this may serve as a reminder for you in the event the MRO calls you to discuss your test results).
- Package and ship both sealed bottles and completed CCF to a U.S. Health and Human Services (HHS) certified testing laboratory as quickly as possible.

If you are unable to provide 45 mL of urine on the first attempt, the time will be noted, and you will be:

- Required to remain in the testing area under the supervision of the collection site personnel, their supervisor, or a representative from your company,
  - Leaving the testing area without authorization may be considered a refusal to test
- Urged to drink up to 40 oz. of fluid, distributed reasonably over a period of up to three hours,

- Asked to provide a new specimen (into a new collection container).
- If you do not provide a sufficient specimen within three hours, you must obtain a medical evaluation<sup>9</sup> within five days to determine if there is an acceptable medical reason for not being able to provide a specimen. If it is determined that there is no legitimate physiological or pre-existing psychological reason for not providing a urine specimen, it will be considered a refusal to test.


**How do you know if you are taking a federal or a private company drug test?**

All DOT drug tests are completed using the Federal Drug Testing Custody and Control Form. Those words appear at the top of each form.

**Testing at the Laboratory**

At the laboratory, the staff will:

- Determine if flaws exist. If flaws exist, the specimen is rejected for testing.
- Open only the A bottle and conduct a screening test. Specimens that screen positive will be analyzed again using a completely different testing methodology.
  - If the specimen tests negative in either test, the result will be reported as a negative.
  - Only if the specimen tests positive under both methods will the specimen be reported to the medical review officer as a positive test.
- Report the findings of the analysis of the A bottle to the Medical Review Officer (MRO).
- Store the A and B bottles for any reported positive, adulterated, or substituted result for at least 12 months.

 **Remember:** The Lab will conduct specimen validity tests (SVTs) to determine if the specimen was adulterated or substituted. Tests found to be adulterated or substituted are also reported to the MRO and may be considered a refusal to test.

**Review by the Medical Review Officer (MRO)**

Upon receipt of the test result from the laboratory, the MRO will:

- Review paperwork for accuracy.
- Report a negative result to the Designated Employer Representative (DER).
- If the result is positive, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as negative. If not, the MRO will report the result to the DER as positive.
- If the result is an adulterated or substituted test, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as cancelled. If not, the MRO will report the result to the DER as a refusal.
- Report a non-negative test result to the DER if:
  - You refused to discuss the results with the MRO;
  - You did not provide the MRO with acceptable medical documentation to explain the non-negative test result.

<sup>9</sup> The physical exam is scheduled after the designated employer representative consults with the medical review officer. The physician chosen to complete the evaluation must have expertise in the medical issues raised and be acceptable to the Medical Review Officer.

- Inform you that you have 72 hours from the time of the verified result to request to have your B “split” bottle sent to another certified lab for analysis for the same substance or condition that was found in the A “primary” bottle.

***If I disclose my prescribed medication use/medical information to the MRO during my interview, will the MRO report that information to a third party?***

The DOT’s regulation requires the MRO to report your medication use/medical information to a third party (e.g. your employer, health care provider responsible for your medical qualifications, etc.), if the MRO determines in his/her reasonable medical judgement that you may be medically unqualified according to DOT Agency regulations, or if your continued performance is likely to pose a significant safety risk. The MRO may report this information even if the MRO verifies your drug test result as ‘negative’.

Prior to the MRO reporting your information to a third party you will have up to five days to have your prescribing physician contact the MRO. You are responsible for facilitating the contact between the MRO and your prescribing physician. Your prescribing physician should be willing to state to the MRO that you can safely perform your safety-sensitive functions while taking the medication(s), or consider changing your medication to one that does not make you medically unqualified or does not pose a significant safety risk.

***What are Medical Review Officers (MROs)?***

Under DOT regulations, MROs are licensed physicians with knowledge and clinical experience in substance abuse disorders. They must also complete qualification training courses and fulfill obligations for continuing education courses. They serve as independent, impartial gatekeepers to the accuracy and integrity of the DOT drug testing program. All laboratory results are sent to an MRO for verification before a company is informed of the result. As a safeguard to quality and accuracy, the MRO reviews each test and rules out any other legitimate medical explanation before verifying the results as positive, adulterated or substituted.

***How is an alcohol test administered?***

The DOT performs alcohol testing in a manner to ensure the validity of the testing as well as provide confidentiality of the employee’s testing information.

**How do you know if you are taking a federal or a private company alcohol test?**

All DOT alcohol tests are documented with a form with the words Department of Transportation at the top.

At the start of the test, a Screening Test Technician (STT) or a Breath Alcohol Technician (BAT), using only a DOT-approved device, will:

- Establish a private testing area to prevent unauthorized people from hearing or seeing your test result.
- Require you to sign Step #2 of the Alcohol Testing Form (ATF).
- Perform a screening test and show you the test result. If the screening test result is an alcohol concentration of less than 0.02, no further testing is authorized, and there is no DOT action to be taken. The technician will document the result on the ATF, provide you a copy and provide your employer a copy.

If the screening test result is 0.02 or greater, you will be required to take a confirmation test, which can only be administered by BAT using an Evidential Breath Testing (EBT) device. The BAT will:

- Wait at least 15 minutes, but not more than 30 minutes, before conducting the confirmation test. During that time, you are not allowed to eat, drink, smoke, belch, put anything in you mouth or leave the testing area.



**Remember:** Leaving the testing area without authorization may be considered a refusal to test.

- Perform an “air blank” (which must read 0.00) on the EBT device to ensure that there is no residual alcohol in the EBT or in the air around it.
- Perform a confirmation test using a new mouthpiece.
- Display the test result to you on the EBT and on the printout from the EBT.
- Document the confirmation test result on the ATF, provide you a copy and provide your employer a copy.
- Report any result of 0.02 or greater immediately to the employer.

If after several attempts you are unable to provide an adequate amount of breath, the testing will be stopped. You will be instructed to take a medical evaluation to determine if there is an acceptable medical reason for not providing a sample. If it is determined that there is no legitimate physiological or psychological reason, the test will be treated as a refusal to test.

| Confirmation test results are the final outcome of the test. |   |
|--|---|
| Result   | Action  |
| Less than 0.02   | No action required under 49 CFR Part 40.  |
| 0.02 – 0.039   | Varies among DOT agencies. For example, FMCSA requires that you not resume safety-sensitive functions for 24 hours [382.505], while the FRA requires 8 hours [219.101(a)(4)]. The FTA & PHMSA require only that you test below 0.02 or cannot work until the next scheduled duty period but not less than 8 hours from the time of the test [655.35 & 199.237 respectively]. And, the FAA requires only that you test below 0.02, if the employer wants to put you back to work within 8 hours [14 CFR Part 120, Subpart F, 120.217(g)]. Also, be sure to check other agency specific regulations for their restrictions. |
| 0.04 or greater  | Immediate removal from safety-sensitive functions. You may not resume safety-sensitive functions until you successfully complete the return-to-duty process.  |

***Should I refuse a test if I believe I was unfairly selected for testing?***

**Rule of Thumb:** Comply then make a timely complaint.

If you are instructed to submit to a DOT drug or alcohol test and you don't agree with the reason or rationale for the test, take the test anyway. Don't interfere with the testing process or refuse the test.

After the test, express your concerns to your employer through a letter to your company's dispute resolution office, by following an agreed upon labor grievance or other company procedures. You can also express your concerns to the

appropriate DOT agency drug & alcohol program office. (See contact numbers listed in the Appendix.) Whomever you decide to contact, please contact them as soon as possible after the test.

### ***What is considered a refusal to test?***

DOT regulations prohibit you from refusing a test. The following are some examples of conduct that the regulations define as refusing a test (See 49 CFR Part 40 Subpart I & Subpart N):

#### **Drug Testing:**

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide a urine sample for any test required by federal regulations.
- Failure to permit the observation or monitoring of you providing a urine sample (Please note tests conducted under direct observation or monitoring occur in limited situations. The majority of specimens are provided in private).
- Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to take a second test when directed to do so.
- Failure to undergo a medical evaluation as part of “shy bladder” procedures.
- Providing a specimen that is verified as adulterated or substituted.
- Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- Failure to follow the observer’s instructions [during a direct observation collection] to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- Admit to the collector or MRO that you adulterated or substituted the specimen.

#### **Alcohol Testing:**

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to sign Step #2 of the ATF
- Failure to provide a breath sample for any test required by federal regulations.
- Failure to provide a sufficient breath sample when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to undergo a medical evaluation as part of “shy lung” procedures.
- Failure to cooperate with any part of the testing process.

### ***What happens if I test positive, refuse a test, or violate an agency-specific drug & alcohol rule?***

If you test positive, refuse a test, or violate DOT drug & alcohol rules:

- A supervisor or company official will immediately remove you from DOT-regulated safety-sensitive functions.



- You will not be permitted to return to performing DOT regulated safety-sensitive duties until you have:
  - Undergone an evaluation by a Substance Abuse Professional (SAP);
  - Successfully completed any education, counseling or treatment prescribed by the SAP prior to returning to service; and
  - Provided a negative test result for drugs and/or a test result of less than 0.02 for alcohol. (Return to duty testing).
- Upon return to a safety-sensitive job, you will be subject to unannounced testing for drugs and/or alcohol no less than 6 times during the first 12 months of active service with the possibility of unannounced testing for up to 60 months (as prescribed by the SAP). These tests (including the return-to-duty test) will be directly observed.

### ***What are Substance Abuse Professionals (SAPs)?***

Under DOT regulations, SAPs are Substance Abuse Professionals. They play a critical role in the work place testing program by professionally evaluating employees who have violated DOT drug & alcohol rules. SAPs recommend appropriate education, treatment, follow-up tests, and aftercare. They are the gate-keepers to the re-entry program by determining when a safety-sensitive employee can be returned to duty.

SAPs are required to have a certain background and credentials, which include clinical experience in diagnosis and treatment of substance abuse-related disorders. They must also complete qualification training and fulfill obligations for continuing education courses. While SAPs do make recommendations to the employer about an employee's readiness to perform safety-sensitive duties, SAPs are neither an advocate for the employee or the employer, and they make return-to-duty recommendations according to their professional and ethical standards as well as DOT's regulations.

**Remember:** Even if a SAP believes that you are ready to return to work, an employer is under no obligation to return you to work. Under the regulations, hiring and reinstatement decisions are left to the employer. Also, under FAA regulations, SAPs cannot return a pilot to duty without the prior approval of the FAA's Federal Air Surgeon.

### ***How do I find a SAP?***

If you violate a DOT drug or alcohol rule, your employer is required to provide you with a list of SAPs' names, addresses, and phone numbers that are available to you and acceptable to them.<sup>10</sup> This is true even if your employer terminates your employment.

### ***Will I lose my job if I violate drug & alcohol regulations?***

DOT regulations do not address employment actions such as hiring, firing or granting leaves of absence. All employment decisions are the responsibility of the employers. Under Federal regulations, the main requirement for employers is to immediately remove employees from performing DOT safety-sensitive jobs. Be aware that a positive or refused DOT drug or alcohol test may trigger additional consequences based on company policy or employment agreement.

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<sup>10</sup> Employers cannot charge employees for the SAP list.

While you may not lose your job, you may lose your certification or license to perform that job. Be sure to check industry specific regulations. For example, someone operating a commercial motor vehicle may not lose their state-issued CDL, but they will lose their ability to perform any DOT regulated safety-sensitive tasks.

### ***Will my results be confidential?***

Your test results are confidential. An employer or service agent (e.g. testing laboratory, MRO or SAP) is not permitted to disclose your test results to outside parties without your written consent. But, your test information may be released (without your consent) in certain situations, such as: legal proceedings, grievances, or administrative proceedings brought by you or on your behalf, which resulted from a positive or refusal. When the information is released, the employer must notify you in writing of any information they released.

### ***Will the results follow me to different employers?***

Yes, your drug & alcohol testing history will follow you to your new employer, if that employer is regulated by a DOT agency. Employers are required by law to provide records of your drug & alcohol testing history to your new employer. This is to ensure that you have completed the return-to-duty process and are being tested according to your follow-up testing plan.

### ***What should I do if I have a drug or alcohol abuse problem?***

Seek help. Jobs performed by safety-sensitive transportation employees keep America's people and economy moving. Your work is a vital part of everyday life. Yet, by abusing drugs or alcohol, you risk your own life, your co-workers lives and the lives of the public.

Most every community in the country has resources available to confidentially assist you through the evaluation and treatment of your problem. If you would like to find a treatment facility close to you, check with your local yellow pages, local health department or visit the U.S. Department of Health and Human Services treatment facility locator at <http://findtreatment.samhsa.gov/>. This site provides contact information for substance abuse treatment programs by state, city and U.S. Territory.

Also, many work-place programs are in place to assist employees and family members with substance abuse, mental health and other problems that affect their job performance. While they may vary by industry, here is an overview of programs that may be available to you:

#### **Employee Assistance Programs (EAPs)**

While not required by DOT agency regulations, EAPs may be available to employees as a matter of company policy. EAPs are generally provided by employers or unions.



**Note:** Many employees believe they only need to contact an EAP counselor if they have a positive drug and/or alcohol test. Not true!


EAP programs vary considerably in design and scope. Some focus only on substance abuse problems; others undertake a broad brush approach to a range

of employee and family problems. Some include prevention, health and wellness activities. Some are linked to the employee health benefit structures. These programs offer nearly full privacy and confidentiality, unless someone's life is in danger.

Do you know what programs are available at your job? Be sure to ask your employer!

### **Voluntary Referral Programs**

Often sponsored by employers or unions, referral programs provide an opportunity to self-report to your employer a substance abuse problem before you violate testing rules. This gives you an opportunity for evaluation and treatment, while at times guaranteeing your job. Be sure to check your company to see if there is a voluntary referral program.

 **Remember:** Self-reporting just after being notified of a test does not release you from your responsibility of taking the test, and it also does not qualify as a voluntary referral.

### **Peer Reporting Programs**

Generally sponsored by employers or unions, you are encouraged or required to identify co-workers with substance abuse problems. The safety of everyone depends on it. Using peers to convince troubled friends and co-workers with a problem is one of the strengths of the program, often guaranteeing the co-worker struggling with substance abuse issues the same benefits as if he had self-reported.


### **Education and Training Programs (required by all Agencies)**

Topics may include the effects of drugs & alcohol use, company testing policies, DOT testing regulations and the consequences of a positive test. Materials may also contain information on how employees can get in touch with their Employee Assistance Programs and community service hot-lines.

In addition, supervisors sometimes receive additional training in the identification and documentation of signs and symptoms of employee's drug and/or alcohol use that trigger a reasonable suspicion drug or alcohol test.

### ***Did you know?***

Did you know that 6 out of 10 people suffering from substance abuse problems also suffer from mental conditions like depression?<sup>11</sup> Research has long documented that people suffering from depression try to self-medicate themselves through alcohol and other drugs. Typically, many of these individuals fail to remain clean and sober after rehabilitation because their underlying medical problem is not addressed and the cycle of self-medication begins again.

 **Remember:** If you have substance abuse issues, there is a 60% chance that you are also suffering from an underlying mental condition like depression.

Increase your chances of rehabilitation. Be sure to ask your doctor or other mental health professionals about depression as it relates to substance abuse issues.

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<sup>11</sup> The Dual Challenge of Substance Abuse and Mental Disorders, NIDA Director Nora D. Volkow, M.D., NIDA Notes, Vol. 18, No. 5.

***But, I have more questions?***

ODAPC is available to help answer anyone's questions regarding DOT drug & alcohol testing regulations. Please contact us at 202-366-DRUG (3784) or visit our website at [www.transportation.gov/odapc](http://www.transportation.gov/odapc) for frequently asked questions, official interpretations of the regulations and regulatory guidelines.

If you have questions regarding DOT agency regulations on a specific industry, contact the agencies drug & alcohol abatement offices listed in the Appendix.

**Appendix**

**Drug & Alcohol Program Manager Contact Information**

**U.S. Department of Transportation**

|       |                       |                |  |
|-------|-----------------------|----------------|--|
| FAA   | Aviation              | (202) 267-8442 | <a href="http://www.faa.gov">www.faa.gov</a>                     |
| FMCSA | Motor Carrier         | (202) 366-2096 | <a href="http://www.fmcsa.dot.gov">www.fmcsa.dot.gov</a>         |
| FTA   | Public Transportation | (617) 494-2395 | <a href="http://www.transit.dot.gov">www.transit.dot.gov</a>     |
| FRA   | Railroads             | (202) 493-6313 | <a href="http://www.railroads.dot.gov">www.railroads.dot.gov</a> |
| PHMSA | Pipeline              | (909) 937-7232 | <a href="http://www.phmsa.dot.gov">www.phmsa.dot.gov</a>         |

**U.S. Department of Homeland Security**

|      |          |                |   |
|------|----------|----------------|---|
| USCG | Maritime | (202) 372-1033 | <a href="http://www.uscg.mil">http://www.uscg.mil</a> |
|------|----------|----------------|---|

**Notes**

Changes from previous version [April 2014]:

- **Inside Front Cover:** Removed room number from office address and paragraph on 'electronic access to publication'
- **Page iv:** Added text "This page intentionally left blank"
- **Page v:** Added text to various section headings to match those in booklet and updated pagination
- **Page 1:** Added/updated text to FAA, PHMSA, FRA and FTA sections of the table
- **Page 3:** Updated list of drugs for which DOT tests
- **Page 3:** Added/removed web resources on 'effects of drugs' and 'where to dispose of unused medicines'
- **Page 4:** Updated footnote #5 to clearly state that State allowance of marijuana is not recognized
- **Page 7:** 11th bullet under 'The Collection' heading, replaced text 'Laboratory Copy' with 'Test Facility Copy'
- **Page 9:** Added new question and answer: "If I disclose my prescribed medication use/medical information to the MRO during my interview, will the MRO report that information to a third party?"
- **Page 11:** Reformatted refusal section into "Drug Testing" and "Alcohol Testing" sections
- **Page 15:** Appendix: In the Drug & Alcohol Program Manager Contact Information section, updated PHMSA's telephone number and updated FTA, FRA, and USCG's web addresses
- **Page 15:** Removed ODAPC contact information because it is on the inside cover of this publication
- **Inside Back Cover:** Added section to list text changes from previous version
- **Back Cover:** Changed revision date from 'April 2014' to 'March 2019'
- Updated various web site addresses/hyperlinks throughout the document, and reformatted pages as needed



U.S. Department  
of Transportation

Page 421 of 456

## Attachment 2 – Comparison of Several Compensation Policies Among Neighboring Cities

This comparison was conducted by several City maintenance workers.

| City              | OT Policy                                 | On- Call   | Comp Cap  | Vacation Accrual Rate            | Alternative Schedule |
|-------------------|---|--|-----------|----------------------------------|----------------------|
| Kenmore           | Only hours worked and Holiday             | 3 hour min.<br>\$55/ day                           | 40 Hours  | 80 hours per year after 5 years  | TBD                  |
| Lynnwood          | Vacation, Holiday and any leaves with Pay | 2 Hour min.<br>See agreement                       | 60 Hours  | 128 per year after 5 years       | Yes                  |
| Monroe            | All Compensated Hours                     | 3 Hour min.<br>OT rate per day<br>On-Call Vehicle. | 120 hours | 136 hours per year after 5 years | Yes                  |
| Lake Forest Park  | Only worked hours                         | 3 hour min.<br>\$50/ Day                           | 80 hours  | 96 hours per year after 5 years  | Yes                  |
| Bothell           | Sick, Vacation, Comp, and Holiday         | 3 Hour min.<br>\$60/ Day<br>On-Call Vehicle.       | 80 Hours  | 128 hours per year after 4 years | Yes                  |
| Woodinville       | Sick, Vacation, Comp and Holiday          | 3 Hour min.<br>\$60/ Day<br>On-call Vehicle        | 80 Hours  | 120 hours per year after 5 years | Yes                  |
| Mill Creek        | All hours except sick                     | 2 hours min.<br>OT rate per day                    | 60 hours  | 96 hours per year at 0-5 years   | Yes                  |
| Sea-Tac           | All Compensated hours                     | 3 hours min.                                       | 80 hours  | 120 hours per year at 4-5 years  | Yes                  |
| Edmonds           | Only Hours worked                         | 3 Hour min.<br>OT rate per day                     | 48 Hours  | 128 hours per year after 5 years | Yes                  |
| Renton            | Based on Compensated Hours                | 2 hour min.<br>Double time rate per day            | 100 Hours | 96 hours per year at 0-5 years   | Yes                  |
| Issaquah          | Any hours over 8 in a work day            | 2 Hour min.<br>OT rate per day                     | 80 hours  | 16 days per year After 5 years   | Yes                  |
| Shoreline         | NA  |  |           |                                  |                      |
| Mountlake Terrace | NA  |  |           |                                  |                      |





# CITY OF KENMORE

## 2023 LEGISLATIVE SESSION

Shelly Helder  
May 22, 2023



# PURPOSE

Overview of the  
2023 Legislative  
Session

Outcome of  
Kenmore's  
Priorities

Additional  
Legislative  
Issues

Next Steps

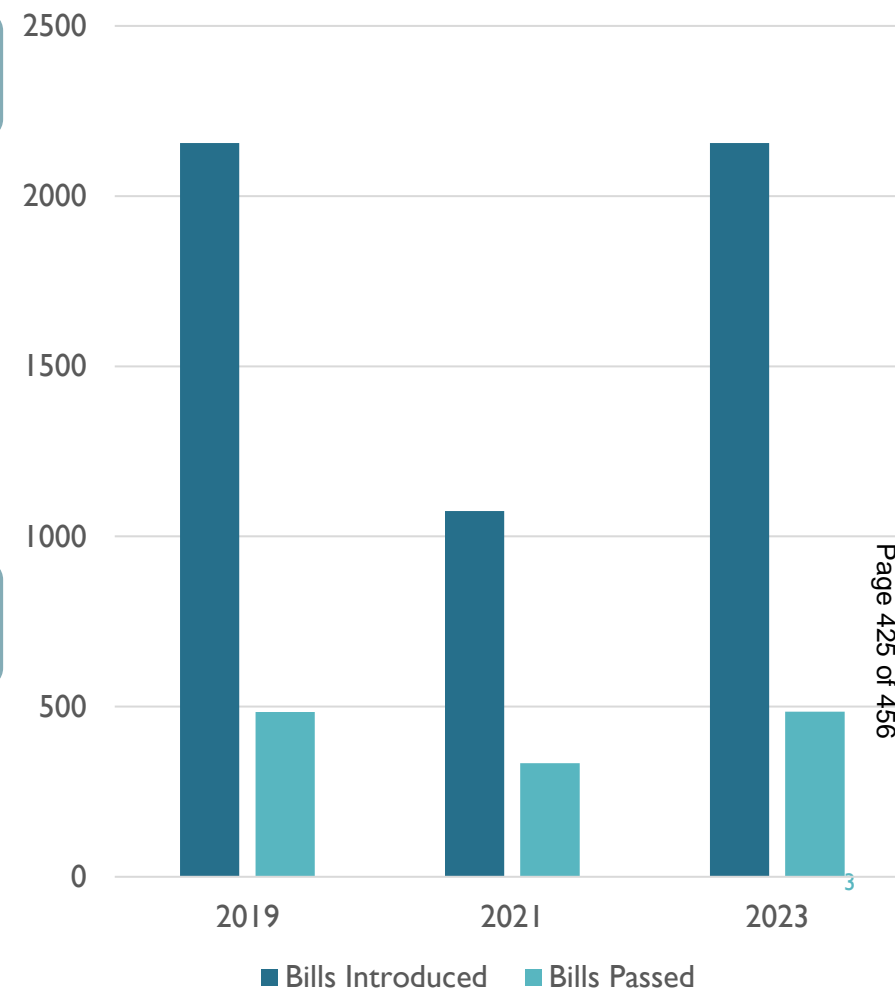
# OVERVIEW OF 2023 LEGISLATIVE SESSION

## General Context

- First year of the biennium, 105-day session
- Adopted 2023-25 operating, capital, and transportation budgets
- 2,156 bills introduced, 485 passed the legislature
- Any legislation that did not pass, will be reconsidered next session

## Political Context

- Democrats held the majority in House and Senate
- New caucus leaders and Committee Chairs



# OVERVIEW OF 2023 LEGISLATIVE SESSION: BUDGETS

## Operating

- Funds all state agency operations
- \$69.8 billion total budget, net increase of \$2.4 billion, \$3.6 billion in reserves
- Notable Investments: Comp plan grants, housing & homelessness services, encampment response, crisis response services and facilities, BLEA, therapeutic courts, etc.

## Capital

- Funds public and nonprofit construction projects (excluding transportation)
- \$9 billion total budget
  - Combination of bond capacity, federal funds, MTCA, CCA, etc.
- \$231.8 million allocated for local community projects (\$160 million in 2021)
- Key investments in housing & homelessness, behavioral health, education, and recreational grants

## Transportation

- \$13.5 billion budget
- First full biennium of revenues and investments from Move Ahead WA
- March revenue forecast continued decline, primarily stemming from fuel taxes.
- Honors delivery of many commitments from Connecting WA & Move Ahead WA
- CCA revenues: investments in carbon-reducing projects and programs

# KENMORE'S 2023 LEGISLATIVE PRIORITIES

## Climate Change Planning & Funding

- House Bill 1181
- \$41 million for implementation

## Plymouth Affordable Housing Development

- \$5 million request
- \$5.1 million included in both House and Senate proposals
- \$1 million included in final budget with intent to fully fund City's HTF award
- End result: \$5M!

## Crisis Receiving Center in North King County

- Project is fully funded
- Senate Bill 5120

## Lift 1% Property Tax Cap

- Three different bills introduced
- None advanced out of committee

## Funding for Affordable Housing

- Governor's \$4 billion bond proposal
- House Bill 1628, REET increase
- \$400 million to HTF and more!

## Air Pollution Emergencies

- Senate Bill 5535, sponsored by Sen. Derek Stanford

## ADDITIONAL LEGISLATIVE ISSUES



### Public Safety

- Vehicular pursuits
- *Blake* fix



### Housing

- Middle housing, condo liability, SEPA exemption, permit streamlining, ADUs, etc.



### Sidewalk Funding for City of Kenmore

- NE 192<sup>nd</sup> St Sidewalk & Bike Lane - \$760,900
- Arrowhead Drive Sidewalks - \$1,997,455
- 80<sup>th</sup> Ave NE Sidewalk and Bike Lane Project - \$2,222,636

## NEXT STEPS



Thank the City's legislative delegation

Implement policies & projects funded with state awards

Prepare for 2024 Legislative Session, begins January 8th



# QUESTIONS?

***Shelly Helder***  
[shelder@gth-gov.com](mailto:shelder@gth-gov.com)  
360-209-3338







## City of Kenmore

### End-of-Session Report

May 17, 2023

#### Overview of the 2023 Legislative Session

The 2023 Legislature convened for a 105-day session that was conducted in person for the first time since the onset of the COVID-19 pandemic. This year's session was the first of the two-year legislative cycle, and legislators were keen to resume their policymaking work at the Capitol campus. Over 2,100 pieces of legislation were introduced this session, and the Legislature approved 484 bills.

The Legislature also enacted the Capital, Operating, and Transportation budgets for the 2023-25 biennium.

On the final evening of the legislative session, the House of Representatives debated a compromise version of [Senate Bill 5536](#) sponsored by Senator June Robinson (D- Everett), concerning possession of controlled substances. The bill did not pass, and Washington's current law on drug possession will expire at the end of June. Governor Inslee called for a special session of the Legislature to give lawmakers another opportunity to set forth a statewide policy before the current statute expires. Legislators from all four caucuses negotiated a compromise bill that was debated on May 16<sup>th</sup> and ultimately passed the Legislature with bipartisan support. See below for more details on this policy.

The Association of Washington Cities has provided a summary of legislative action related to the AWC priorities, available on the [AWC website](#).

#### Budget Highlights

**2023-25 Biennial Operating Budget:** The state's Operating budget funds all state agency operations, including K-12 education, higher education, human service programs, and more. The 2023-25 biennial Operating budget appropriates \$69.8 billion, a net increase of \$2.4 billion. Approximately \$412 million in Climate Commitment Act revenues are budgeted for policy-level items in the budget. An ending fund balance of \$1.4 billion in general funds is projected for the 2023-25 biennium, and total reserves are projected at \$3.6 billion.

The Legislature considered the changing fiscal environment in developing the biennial Operating budget. Federal funding streams that were temporarily enhanced due to the COVID-19 pandemic are beginning to phase out as the declaration of federal public health emergency expired on May 11<sup>th</sup>. Inflation and forecasts indicating slower than average revenue growth over the next two biennia also factored into the budget considerations.

The Operating budget makes significant investments in the K-12 education system, higher education, behavioral health, health care, long-term care, child welfare, carbon reduction, public safety, and housing and homelessness supports. Highlights of investments related to local governments include:

**Public safety:**

- \$3.4 million for six additional Basic Law Enforcement Training Academy (BLEA) classes, for a total of 23 classes in both 2024 and 2025
- \$3 million for grants to local law enforcement for vehicle pursuit management technology
- \$5.3 million for cities and counties to assist with alternative response team programs
- \$115.8 million to assist with vacating and resentencing under the *State v. Blake* decision and refunding legal financial obligations
- \$29.6 million for therapeutic courts

**Behavioral health:**

- \$108.7 million for forensic mental health and continued implementation of the *Trueblood* settlement
- \$21.5 million for crisis triage, relief, or stabilization centers
- \$44 million for the recovery navigator program
- \$44.4 million for behavioral health mobile crisis response teams
- \$69.3 million for 988 crisis response

**Housing and homelessness:**

- \$150 million for the new Covenant Homeownership Program (House Bill 1474)
- \$150 million to transition individuals living in encampments to housing
- \$130 million for the Housing and Essential Needs program
- \$111 million for emergency housing and rental assistance

**Climate and Energy**

- \$138 million for community electric vehicle charging infrastructure
- \$10 million to support municipalities in siting and permitting clean energy projects
- \$6 million to increase capacity for urban forestry programs
- \$35 million for utility assistance through the existing low-income home energy assistance program (LIHEAP) network

**2023-25 Biennial Capital Budget:** The Capital budget funds brick-and-mortar construction, excluding transportation. The 2023-25 biennial Capital Budget authorizes total expenditures of \$9 billion. Of this amount, \$4.7 billion is financed with general obligation bonds. Additionally,

\$95.4 million in bond capacity is reserved for a supplemental capital budget. The Capital budget reappropriates \$7.6 billion for projects that were previously authorized but not yet completed.

Housing, behavioral health, and infrastructure are key areas of investment in the enacted Capital budget.

#### **Housing**

- \$400 million for the Housing Trust Fund
- \$60 million for Connecting Homes to Infrastructure program (CHIP) grants to local governments
- \$50 million to match private investment for grants to support transit-oriented development

#### **Behavioral health**

- \$211 million for behavioral health capacity grants, including \$133 million for 18 projects across the state that will provide regional behavioral health and substance use services.

#### **Infrastructure and built environment**

- \$400 million for the Public Works Assistance Account
- \$68 million for the Stormwater Financial Assistance program
- \$115 million for Remedial Action Grants
- \$670 million for the Water Pollution Control Revolving Loan program
- \$25 million for the Community Economic Revitalization Board
- \$200 million for broadband grants and loans
- \$95 million for Salmon Recovery Funding Board grants and \$25 million for riparian area grants
- \$120 million for the Washington Wildlife and Recreation program
- \$48.4 million for the Fish Barrier Removal Board
- \$150 million for various clean energy and energy efficiency efforts

**2023-25 Biennial Transportation Budget:** The Transportation budget funds capital facilities investments as well as operating programs for the transportation system in the state. The budget includes total appropriations of approximately \$13.5 billion, including approximately \$970 million in Climate Commitment Act funding. CCA funds are appropriated to support carbon-reducing projects and programs, such as multi-modal facilities, public transit, and transportation electrification efforts.

Highlights of importance for local governments include:

- \$287 million for the Transportation Improvement Board, including \$14.6 million for Complete Streets grants and \$9 million in preservation funding for cities
- \$70.8 million for Safe Routes to Schools grants (only \$54 million is new funding)
- \$72.2 million for Pedestrian and Bicycle Safety programs (only \$51.9 million is new funding)
- \$45.7 million for the Freight Mobility Strategic Investment Board
- \$11.5 million to address homeless encampments within state-owned rights-of-way in coordination with local governments

The 2023-25 Transportation budget also provided phasing for many projects included in the 16-year Move Ahead Washington transportation package passed by the Legislature in 2022. The updated project list can be viewed [here](#).

For additional detail on aspects of the three biennial budgets relevant to local governments, refer to the Association of Washington Cities [budget matrix](#).

## Legislative Agenda Items

### Climate Change Planning & Funding

The City requested the state Legislature require all communities to incorporate climate change planning in their comprehensive plans and to provide resources for communities to address climate change. For the third session, the Legislature considered a bill that does just that. In this third year, the bill made it across the finish line. [E2SHB 1181](#) sponsored by Rep. Davina Duerr, is Governor-request legislation that amends the Growth Management Act to add a goal of climate change and resiliency to the list of elements required in comprehensive plans. It requires jurisdictions to identify actions to reduce greenhouse gas emissions and vehicle miles traveled. Jurisdictions required to review their comprehensive plans by June 30, 2025, must implement the bill's requirements. The policy for integrating climate change into the Growth Management Act has been introduced in previous legislative sessions but did not make it to the finish line. The bill's provisions were refined over time through stakeholder engagement until it reached its final form. Although the building industry still had reservations about the bill, it was able to build enough support to finally pass this session. The Operating budget provides \$41 million for grants to assist with implementation. The Governor signed the bill into law, it takes effect July 23.

### Plymouth Affordable Housing Development

The City requested \$5 million from the state capital budget toward the Plymouth Affordable Housing Development. Senator Derek Stanford and Rep. Shelley Kloba sponsored the city's request in each chamber. Leading up to and during the legislative session we met with the lead capital budget writers in both chambers to share the vision for the project and explain the importance of the state's partnership in filling the funding gap. Generally, there was positive feedback from budget writers about the project and a desire to help the City make it a reality.

When the House and Senate proposed capital budgets were released in early April, they both included \$5.1 million for the Plymouth Affordable Housing Development! In the following weeks we touched base with lead budget writers and staff to confirm there were no issues with the funding being included in the final budget. At one point, there was an inquiry about whether the project could use additional funding if made available. When the final budget was released on April 21 it only included \$1 million for the Plymouth Affordable Housing project. This was news to the 1<sup>st</sup> district legislators who had been hearing good things about the prospects for the project. Upon publication of the budget, we reached out to state legislators and capital budget writers to understand what happened. We learned that budget writers re-appropriated \$38 million from a different program to the competitive grant program through the Housing Trust Fund (HTF). Their intent was to provide more funding to HTF to allow the projects that were partially funded to receive their full funding. For Kenmore, this means the original HTF request of \$5 million would be fully funded, rather than only \$1 million that was previously awarded.

Recognizing that would result in a shortfall of \$1 million for the project, the budget writers allocated the remaining \$1 million through the HTF discretionary list in the budget. Despite the path being circuitous, the final capital budget includes \$5 million for the Plymouth Affordable Housing project!

### **Crisis Receiving Center in North King County**

The Cities of Kenmore, Kirkland, Lake Forest Park, Bothell and Shoreline formed the Regional Crisis Response Agency (RCR) to provide consolidated and standardized regional mobile crisis response services for the five-city region. A key component in the continuum of behavioral health care is *somewhere to go*, a crisis stabilization facility. The cities have been coordinating for several years to provide a facility for the region and over the last year have been advocating at the state level for the necessary funding. Leading up to and throughout the legislative session, GTH participated in routine coordinating meetings with the government affairs team at Connections Health Solutions and the contract lobbyist for the other cities. To our great surprise and delight, the facility received full funding via state grants and other sources just prior to the legislative session. This meant that the session was focused on policies that would support the prompt delivery of the project. The main policy we supported was [Senate Bill 5120](#), sponsored by Senator Manka Dhingra (D- Redmond), which creates a licensing pathway for 23-hour crisis relief centers. Prior to passage of this bill, there was no licensing process for the type of facility envisioned in North King County. These are facilities that are open 24 hours per day, seven days a week, offering behavioral health to adults for no more than 23 hours and 59 minutes at a time. The centers will accept walk-ins and drop-offs from first responders and individuals referred through the 988 system and have a no-refusal policy for individuals dropped off by law enforcement.

### **Lifting the One Percent Property Tax Cap**

Three proposals were introduced this session that would have lifted the one percent limit factor on property tax for local governments, but none were passed. [SB 5618](#) sponsored by Senator Patty Kuderer (D- Mercer Island), revised the property tax cap for local governments to account for inflation and population growth up to three percent. The bill was heard, but not advanced out of committee. [HB 1670](#) sponsored by Representative Timm Ormsby (D-Spokane), would have revised the property tax cap for local governments from one percent to three percent, but did not contain provisions related to inflation or population growth. The bill did not advance out of the House Rules Committee. [SB 5770](#) sponsored by Senator Jamie Pedersen (D- Seattle) was introduced late in the session and took a similar approach to Senate Bill 5618, adjusting the property tax limit to account for inflation and population growth up to three percent. The bill did not receive any action in its referred fiscal committee.

### **Funding for Affordable Housing**

In addition to the budget investments in housing and homelessness supports outlined above, the Legislature also included the following housing-related items in the Operating budget:

- \$18 million to help address the Document Recording Fee revenue shortfall for local governments to implement homeless services
- \$45.6 million to increase homeless service grantee contracts
- \$5 million for eviction prevention, including tenants' right to counsel
- \$4 million in one-time funding for the Homeless Prevention and Diversion Fund
- \$2 million for the Homeless Student Stability program

- \$1 million for the Washington Youth and Families Fund
- \$5 million for civil legal information, advice, and representation for tenants at risk of eviction

The City supported [HB 1628](#) sponsored by Representative Frank Chopp (D- Seattle), which would have modified the state real estate excise tax (REET) and allow a county or city to impose an additional 0.25 percent REET for the construction of affordable housing, but the bill did not pass this session. A significant opposition effort was undertaken by the real estate community to stop the bill and it did not advance out of its assigned fiscal committee. The Governor's \$4 billion bond proposal to support affordable housing investments was considered but ultimately did not advance.

### **Air Pollution Emergencies During Wildfire Smoke Events**

The City requested legislation that would establish clear authority at the state and local level for air pollution agencies to declare an air pollution emergency during extended periods of unhealthy air created by wildfire smoke. We worked with Senator Derek Stanford to draft legislation that would accomplish this goal. Senator Stanford sponsored [Senate Bill 5535](#) which would have allowed clean air agencies to regulate and reduce operations of major industrial manufacturing air contaminant sources of fine particulate matter during a second stage burn ban. The bill was referred to the Senate Environment, Energy & Technology committee but never received a public hearing. For this policy to advance in the future, there will need to be coordination with the Department of Ecology, clean air agencies and other impacted stakeholders.

## **Additional Policy Issues**

### **Automated Traffic Safety Cameras**

**Speed Cameras in Work Zones:** [SB 5272](#) sponsored by Sen. Marko Liias (D-Mukilteo), by request of the Department of Transportation, authorizes the use of speed cameras on state highways when a work zone is present. The bill takes effect July 23<sup>rd</sup>.

### **Climate Change and Environmental Stewardship**

As outlined in the budget summaries above, the Legislature had additional revenues through the Climate Commitment Act to appropriate for carbon-reduction initiatives and projects in the biennial budget. The Department of Ecology held its first quarterly auction of emissions allowances earlier this year. All allowances were sold, and the Department raised about \$300 million at the auction. Projected auction revenues total approximately \$1.7 billion for the 2023-25 biennium. The Operating budget plans expenditures of \$412 million and the Transportation budget appropriates about \$970 million for greenhouse gas emission efforts.

### **Criminal Justice**

The Legislature grappled with controversial policies in the public safety arena that were outstanding from the 2021 legislative session. The primary issues were peace officer vehicular pursuits and new legislation in response to the *State v. Blake* Supreme Court decision, which struck down Washington's law on possession of controlled substances as unconstitutional. The



latter issue presented an especially urgent matter for the Legislature, as the 2021 law classifying possession of controlled substances as a misdemeanor is set to expire at the end of June 2023.

*Peace officer vehicular pursuits:*

In 2021, the Legislature passed legislation requiring probable cause, rather than reasonable suspicion, to believe that a person in the vehicle has committed certain offenses for an officer to engage in a vehicular pursuit. Law enforcement agencies expressed concern about this higher threshold and continued to do so, prompting follow-up legislation in the 2022 session to restore the standard of reasonable suspicion. The policy was not supported by police reform advocates and did not pass during the short session.

Policy dialogue around the vehicular pursuits issue continued to be contentious this session. The Washington Association of Sheriffs and Police Chiefs and many local governments advocated for restoration of the reasonable suspicion standard, citing examples of individuals who had eluded police apprehension since the 2021 law went into effect. Police reform advocates held the position that vehicular pursuits represent a danger to the public and noted that the number of people injured or killed from vehicular pursuits has decreased since 2021. The Chair of the Senate Law and Justice Committee refused to hold a hearing on [ESB 5352](#) sponsored by Senator John Lovick (D- 44<sup>th</sup> LD), out of concern that reverting back to the reasonable suspicion threshold would result in more dangerous pursuits.

Senate Bill 5352 was ultimately passed by the Legislature, its forward progress aided by a suspension of the rules in the Senate that brought the bill up for floor debate just in time for the house-of-origin cutoff. It lowers the evidentiary threshold for engagement in vehicular pursuits from probable cause to reasonable suspicion for specific crimes: a violent offense, a sex offense, a vehicular assault offense, an escape offense, driving under the influence, or a domestic violence assault offense. The pursuit must be necessary for the purpose of identifying or apprehending the person, and the fleeing person must pose a serious risk of harm to others. Its companion bill, [HB 1363](#) sponsored by Representative Alicia Rule (D- 42<sup>nd</sup> LD), was advanced by its assigned policy committees but because the Senate version advanced out of its chamber of origin, it became the vehicle for enacting the final policy.

Proposals establishing a work group on the vehicular pursuits issue were also introduced and considered this session but did not pass. [SB 5533](#) sponsored by Senator John Lovick (D- 44<sup>th</sup> LD), would have directed the Criminal Justice Training Commission (CJTC) to convene a work group to develop a model vehicle pursuit policy and establish a grant program for modern vehicle pursuit technology. [HB 1586](#) sponsored by Representative Roger Goodman (D- 45<sup>th</sup> LD), would have directed the CJTC to convene a work group to develop legislative policy recommendations on vehicular pursuits and establish a grant program similar to what was proposed in SB 5533. While the Legislature did not approve either of these bills, \$3 million was appropriated in the 2023-25 Operating budget to fund a law enforcement technology grant program for modern vehicle pursuit management technology.

*State v. Blake/possession of controlled substances:*

The Senate took the lead on introducing policy approaches to the possession of controlled substances issue. Four proposals were introduced, and all would have repealed the current statute

classifying drug possession as a misdemeanor and requiring law enforcement to make referrals to substance use assessment and treatment on two occasions before charges may be filed. Aside from that common thread, the four bills differed in their perspectives on how the offense should be classified and handled through the justice system.

[SB 5536](#) sponsored by Senator June Robinson (D- Everett), was chosen to advance in the legislative process. As passed by the Senate, the bill classified possession of controlled substances as a gross misdemeanor and contained provisions outlining the procedure for pretrial diversion and vacation of convictions. The bill passed the Senate by a narrow margin of 28-21, with a bipartisan mix of votes on both sides of the tally. In the House, the bill was amended to reduce the crime of possession down to a simple misdemeanor, which carries a sentence of up to 90 days in jail, rather than the gross misdemeanor sentence of up to 364 days. The House version also added the crime of drug use in a public place as a misdemeanor. The House passed the bill 54-41, with a few Democrats joining the Republicans in voting against it. The Senate refused to concur with the House's amendments, so the bill then went to conference.

The conference committee's recommendation went back to classifying possession as a gross misdemeanor as passed by the Senate, with the addition of classifying use in a public place as a gross misdemeanor as passed by the House. The bill was brought up for floor debate in the House on the final evening of the legislative session. The conference committee's recommendation was defeated by a vote of 43-55, with 15 Democrats joining the Republicans in opposing the bill. Following adjournment of the regular session, Governor Inslee called for a special session to begin on May 16<sup>th</sup>.

Legislators from all four caucuses met with one another and impacted stakeholders to draft a compromise bill. On May 16<sup>th</sup> the House and Senate convened for a special session to debate and vote on a [striking amendment](#) to Senate Bill 5536. The Senate passed the bill 43-6, with three Democrats and three Republicans voting in opposition. The House passed the bill 83-13, with nine Democrats and four Republicans voting in opposition, and two Representatives excused. In summary, the bill:

- Establishes knowing possession of a counterfeit or controlled substance as a gross misdemeanor. It also establishes use of a counterfeit or controlled substance in a public place as a gross misdemeanor. Both are subject to a sentence of up to 180 days, a fine of no more than \$1,000, or both, for the first two offenses. If a defendant has two or more prior convictions after July 1, 2023, the potential confinement increases to up to 364 days in jail and/or a fine of \$1,000.
- Diversion is required if the individual is only charged with possession or public use of an unlawful substance and if the individual does not have any criminal convictions after the effective date of the bill. Otherwise, pre-trial diversion, as well as other therapeutic court alternatives, are optional. The prosecutor must agree on any diversion option, including pre-trial diversion. If the prosecutor agrees, the court must approve the defendant's request if the individual has no other criminal offenses after the effective date of the bill and is only charged with possession or public use. Unless these criteria are met, the court has the discretion to approve the pre-trial diversion even if the prosecutor is supportive. The bill is ambivalent on diversion methods – law enforcement assisted



diversion (LEAD), recovery navigator program (RNP), or an arrest and jail alternative program.

- Individuals must substantially comply with treatment for 12 months or by completing recommended treatment/services, whichever comes first.
- Local governments are preempted from regulating drug paraphernalia other than harm reduction services.
- Opioid treatment programs, recovery residences, substance use disorder treatment facilities, and harm reduction programs are added to the list of essential public facilities. Safe injection sites are specifically excluded from the definition of essential public facilities.
- The bill establishes a grant program for LEAD and funds the program at \$5 million for the 2023-25 biennium.

A side-by-side comparison of the House, Senate, conference committee, and special session striker versions of the bill can be viewed [here](#).

**Funding for body worn cameras:** The enacted Operating budget appropriates \$1.6 million for WASPC to administer a body worn camera grant program to local law enforcement agencies.

## Firearms

Democrats in the Legislature collaborated with the offices of the Governor and Attorney General to advance firearms safety measures this session in response to the increase in gun violence seen across the nation. [SHB 1240](#) sponsored by Representative Strom Peterson (D- Edmonds), by request of the Governor and Attorney General, prohibits the sale of assault weapons. [E2SHB 1143](#) sponsored by Representative Liz Berry (D- Seattle), by request of the Governor, requires gun buyers to undergo training on proper storage and handling of firearms, along with risk awareness regarding children and individuals with suicidal thoughts. [SSB 5078](#) sponsored by Senator Jamie Pedersen (D- Seattle), by request of the Governor and Attorney General, clarifies legal liabilities for gun dealers and manufacturers for knowingly creating a public nuisance by promoting conversion to illegal products, marketing products to children, selling weapons to people prohibited from purchasing firearms, and other prohibited actions.

## Local Culvert and Stormwater Funding

The Legislature appropriated \$68 million for the Stormwater Financial Assistance program in the 2023-25 Capital budget. Additionally, \$48.4 million was allocated to the Brian Abbott Fish Barrier Removal Board. City and county governments are eligible to apply for grants on a biennial basis.

## Local Infrastructure Funding

The Legislature considered legislation that would have created a Public Works Revolving Trust Account in the State Treasury to be used for loans or grants to local governments for financing public works projects through the Public Works Board. If the legislation had been approved, the measure would have gone before the voters to amend the state Constitution. The policy did not receive enough support to advance this session. However, as noted above, the enacted budgets appropriate funding for infrastructure needs. Highlights include:

- \$400 million for the Public Works Assistance Account
- \$68 million for the Stormwater Financial Assistance program
- \$115 million for Remedial Action Grants
- \$670 million for the Water Pollution Control Revolving Loan program
- \$25 million for the Community Economic Revitalization Board
- \$200 million for broadband grants and loans
- \$120 million for the Washington Wildlife and Recreation program
- \$48.4 million for the Fish Barrier Removal Board
- \$287 million for the Transportation Improvement Board
- \$70.8 million for Safe Routes to Schools grants
- \$72.2 million for Pedestrian and Bicycle Safety programs
- \$45.7 million for the Freight Mobility Strategic Investment Board

**Safe Routes to School:** The Department of Transportation administers the Safe Routes to School grant program that provides funding for projects to improve the safety of active transportation options near public schools. The agency solicits project applications in even numbered years and provides a report to the legislature with prioritized projects and a recommended funding level. The 2022 report to the legislature included three Kenmore projects on the list. Two projects were above the agency's recommended funding level of \$54 million. One project, 84<sup>th</sup> Ave NE Sidewalk and Bike Lane Project, was below the level but within a grouping of projects that WSDOT indicated would be funded if the legislature allocated \$70 million to the program. We advocated for that funding level based on the WSDOT report. Both the House and Senate transportation budgets funded the program at that level, and we expressed our support for the budget proposals based on the expectation that the funding level would result in an award for the 84<sup>th</sup> Ave NE project. Although the final budget includes \$70 million for the Safe Routes to School program, it was not made public that there is \$16 in reappropriations included in that amount. The result is that only \$54 million is available for new projects and 84<sup>th</sup> Ave NE is not funded. The City will still receive two awards through the SRTS program. They include:

- \$760,900 for NE 192<sup>nd</sup> St sidewalk and bike lane project
- \$1,997,455 for Arrowhead Drive Sidewalks

**Pedestrian and Bicycle Safety:** Similar to Safe Routes to School, WSDOT administers the Pedestrian and Bicycle Safety grant program. The City applied for and was recommended for funding on the WSDOT list. The Legislature funded the Ped/Bike program at \$72 million but \$20 million was for reappropriation so there was \$50 million for new projects. This means the City will receive the following grant:

- 80<sup>th</sup> Avenue NE Sidewalk and Bike Lane Project - \$2,222,636

## Housing Crisis

Enacting policies and budgets that meaningfully address the housing shortage was a top priority for the Legislature this session. Policy makers were guided by a report by the Department of Commerce stating that Washington State needs about one million additional homes by 2044 to adequately accommodate projected population growth. Of those one million homes, approximately 525,000 of those units need to be either affordable to households at or below 50 percent of area median income or affordable to extremely low-income households. Legislators

cited these data points in committee hearings throughout the legislative process to underscore the urgent need for housing policy solutions.

The Legislature considered several policy approaches aimed at bringing more housing to market, tenant protections and other policies aimed at keeping individuals housed, and boosting homeownership. Additionally, Governor Inslee introduced a proposal to issue bonds to generate \$4 billion for affordable housing and other types of housing to address homelessness over a six-year period. The concept was given serious consideration by the Legislature but would have required voter approval. Instead, legislators chose to increase its support for housing through budget appropriations and passed several policy bills to respond to the housing shortage.

*Bringing more housing to market:*

**Condominiums:** [SB 5058](#) sponsored by Senator Mike Padden (R- 4<sup>th</sup> LD), and [E2SSB 5258](#) sponsored by Senator Sharon Shewmake (D- 42<sup>nd</sup> LD), work in tandem to reduce barriers to condominium and townhouse development, which was viewed as an avenue for increasing homeownership opportunities for first-time homebuyers and seniors seeking to downsize into a more manageable property. Senate Bill 5058 exempts buildings with 12 or fewer units that are no more than two stories from condominium liability. Senate Bill 5258 contains several provisions aimed at boosting construction and homeownership of condominiums and townhomes. It modifies the requirements for claims regarding construction defects and makes the qualified warranty program available to developers subject to the Uniform Common Interest Ownership Act. It exempts certain sales of condominiums and townhomes from the real estate excise tax (REET) and creates the Down Payment Assistance Account for buyers purchasing a condominium or townhome. The REET exemption does not apply to sales of condominiums and townhomes that are constructed in buildings qualifying for the multi-family property tax exemption.

**Middle housing types:** [E2SHB 1110](#) sponsored by Representative Jessica Bateman (D- 22<sup>nd</sup> LD) requires cities to authorize minimum housing development densities in residential zones depending on their population size, ranging from a minimum of two to at least six units per lot. The bill provides an alternative to the density requirements by allowing cities to implement the requirements in at least 75 percent of lots zoned single-family if the remaining portion of lots meet certain criteria. Under the alternative density option, any areas at high risk of displacement may be excluded from the 75 percent of lots subject to minimum density requirements. Cities may allow accessory dwelling units to achieve the unit density required and can limit the areas subject to the density requirements in accordance with water supply capacity. Cities may apply objective development regulations currently applied to single-family residences in accordance with existing ordinances intended to protect critical areas and public health. While the bill had bipartisan backing that carried it to the finish line, local governments took varying and nuanced positions on the legislation. The prime sponsor held stakeholder discussions with the Association of Washington Cities and individual cities which resulted in key changes, including allowing the Department of Commerce to approve comprehensive plans from cities with land use regulations that are substantially similar to the bill's provisions and providing for an alternative compliance pathway. The Association of Washington Cities arrived at a supportive position in the waning weeks of the legislative session. The Operating budget appropriates \$2 million for grants to implement the bill.

**Accessory Dwelling Unit regulations:** [EHB 1337](#) sponsored by Representative Mia Gregerson (D- 33<sup>rd</sup> LD) requires cities and counties planning under the Growth Management Act to allow the construction of at least two accessory dwelling units (ADUs) per lot within urban growth areas. Local governments are prohibited from imposing certain regulations or restrictions on ADU construction, including gross floor area requirements and roof height limits. The bill prohibits owner-occupancy requirements as well as off-street parking requirements within one-half mile walking distance a major transit stop. Local governments may restrict the use of ADUs for short-term rentals and prohibit the construction of ADUs on lots not served by public sewers. Of the two proposals mandating the allowance of ADU construction, local government stakeholders generally preferred the other bill, [SB 5235](#), because it was less prescriptive, but the Legislature ultimately chose this bill as the vehicle for enacting ADU policy. When signing the bill into law, Governor Inslee vetoed Section 5, which allowed local governments to waive fees or specific regulations for ADUs within urban growth areas if the units were subjected to a binding commitment to be used as long-term housing.

**Use of existing buildings for residential purposes:** [ESHB 1042](#) sponsored by Representative Amy Walen (D- 48<sup>th</sup> LD) prohibits cities from imposing certain restrictions on existing buildings zoned for commercial or mixed use. Cities must allow the addition of housing units at a density up to 50 percent more than what is allowed in the underlying zone if built entirely within the building's envelope and cannot impose additional parking requirements. Cities may not prohibit the addition of housing units in any specific part of a building except ground floor commercial retail spaces along a major pedestrian corridor. The bill advanced quickly in its house of origin despite concerns raised by local governments regarding provisions contained in the original draft. The Senate amended the bill to address many of the concerns.

**SEPA exemption for housing:** [2SSB 5412](#) sponsored by Senator Jesse Salomon (D- 32<sup>nd</sup> LD) expands the infill development categorical exemption from the State Environmental Policy Act (SEPA) to include housing development. All project actions that propose to develop residential housing units within the incorporated portions of urban growth areas or middle housing within the unincorporated areas of urban growth areas are categorically exempt from SEPA. Before adopting the categorical exemptions, jurisdictions must satisfy certain criteria, including that the development is consistent with development regulations under the comprehensive plan and that the city or county has prepared an environmental analysis that considers the proposed use or intensity of use in the area and that analysis has been conducted regarding multi-modal transportation impacts. The Association of Washington Cities was a strong proponent of the legislation as it reflected a policy recommendation of the AWC Housing Solutions Work Group. The Operating budget appropriates \$20 million for grants to assist with updating comprehensive plans, including the requirements contained in this bill.

**Consolidating local permit review processes:** [2SSB 5290](#) sponsored by Sen. Mark Mullet (D- 5<sup>th</sup> LD), requested by the Governor's Office, establishes a consolidated permit review program for local governments to issue final decisions for residential permit applications within specified time frames. Local governments are required to exempt project permits for interior alterations from site plan review under certain conditions. The bill requires local governments to refund a proportion of the permit fees if they have not issued a final decision by the established time

period. The requirements take effect after January 1, 2025. A grant program is established in the legislation to support local governments' transition from paper to digital permit filing systems. The Operating budget provides \$3 million for grants to assist local governments with implementation of the bill.

Not reaching the finish line this session was [SB 5466](#) sponsored by Senator Marko Liias (D- 21<sup>st</sup> LD), which would have required cities planning under the Growth Management Act to allow multi-family housing projects within transit station areas to be developed at transit-oriented density maximum floor area ratios. The bill was introduced at the request of the Governor's Office and the Seattle-area business community was the primary proponent. Local governments held mixed perspectives on the bill. Some were supportive of its policy goals while others expressed concern about the floor area ratios and potentially broad application based on the many types and frequencies of public transit service as outlined in the original draft. The Puget Sound Regional Council created a map illustrating the areas where such development would be allowed according to the availability of transit service as defined in the bill that indicated almost the entire Central Puget Sound region would be subject to its provisions, raising alarm among many stakeholders. The bill was amended late in the process to include an affordability requirement for housing development that did not receive broad support from the construction and real estate industries, which had been supportive of the legislation. A compromise to address stakeholder's diverging perspectives on the bill could not be reached by the time the Legislature adjourned.

Another bill aimed at increasing housing construction, [HB 1245](#) sponsored by Representative Andrew Barkis (R- 2<sup>nd</sup> LD), also failed to pass this session. The bill would have required cities planning under the Growth Management Act to allow the splitting of a single residential lot into two residential lots. While there was momentum behind this legislation as a viable tool to foster more infill residential development, it was unclear how the policy would interact with the middle housing and accessory dwelling unit bills.

#### *Affordable housing:*

**Incentives for Accessory Dwelling Units Rented to Low-Income Households:** [E2SSB 5045](#) sponsored by Senator Patty Kuderer (D-48<sup>th</sup> LD), authorizes King County to offer a property tax exemption for accessory dwelling units that are rented to households whose adjusted income is at or below 60 percent of median household income. Rent charged to the tenant must not exceed 30 percent of the tenant's monthly income, and the ADU must not be occupied by a person under the age of 60 who is an immediate family member of the taxpayer.

**Surplus public property for affordable housing:** [HB 1695](#) sponsored by Representative Emily Alvarado (D- 34<sup>th</sup> LD) updates the definition of affordable housing for a public benefit purpose in the context of local governments' authority to dispose of surplus public property for public benefit. As outlined in the legislation, affordable housing refers to rental housing, including rent and utilities, whose cost does not exceed 30 percent of the household's monthly income. For permanently affordable homeownership, the total cost of mortgage principal and interest, property taxes, homeowner's insurance, homeowner's association fees, and land lease fees must not exceed 38 percent of the household's monthly income.



**Waiving municipal utility connection charges for affordable housing:** [SHB 1326](#) sponsored by Representative Julio Cortes (D- 38<sup>th</sup> LD) authorizes municipal utilities to establish a program to waive connection charges for properties used by a non-profit organization, housing authority, local agency, or other organization that provides emergency shelter, transitional housing, permanent supportive housing, or affordable housing. Any waived connection charges must be funded through general funds, grant dollars, or another identified revenue stream.

*Tenant protections and housing retention:*

**Flexibility on affordable housing and mental health funding:** [SSB 5604](#) sponsored by Senator June Robinson (D- 38<sup>th</sup> LD) allows all jurisdictions to use revenue from the affordable and supportive housing sales tax for rental assistance, and allows counties to use chemical dependency and mental health services tax revenue for modifications to existing facilities to address health and safety needs. Local governments may retain up to 10 percent of the affordable and supportive housing tax for administrative costs.

**Foreclosure protections:** [HB 1349](#) sponsored by Representative Tina Orwall (D- 33<sup>rd</sup> LD) modifies the timeline for referral to pre-foreclosure mediation to provide that a borrower may be referred to mediation no later than 90 days before the date of sale is listed in the Notice of Trustee Sale, instead of no later than 20 days from the date the Notice is recorded. The bill makes it unlawful to seek or receive financial compensation for locating or purporting to purchase surplus funds held by a court or county resulting from a foreclosure where the fee is in excess of five percent of the value reasonably expected to be recovered.

Two bills concerning tenant protections were approved. [HB 1074](#) sponsored by Representative My-Linh Thai (D- 41<sup>st</sup> LD), requires landlords to provide documentation substantiating the cost of any damages withheld from a tenant's deposit. The bill was passed in both chambers on party-line votes. [ESSB 5197](#) sponsored by Senator Patty Kuderer (D- 48<sup>th</sup> LD) modifies several aspects of the eviction process, including allowing remote participation by any party in forcible and unlawful detainer actions, and allowing tenants who provide a pledge of financial assistance letter to satisfy an unlawful detainer judgment and have their tenancy restored.

*Boosting homeownership:*

**Creating the covenant homeownership account:** [2SHB 1474](#) sponsored by Representative Jamila Taylor (D- 30<sup>th</sup> LD) establishes and funds the Covenant Homeownership Program to provide down payment and closing cost assistance to economically disadvantaged households. The Covenant Homeownership Program is funded through a \$100 document recording fee collected by county auditors. The Department of Commerce must contract with the Washington State Housing Finance Commission to create a Special Purpose Credit Program to provide down payment and closing cost assistance to economically disadvantaged homebuyers. An oversight committee is established in the bill and the Housing Finance Commission must complete an initial study of the new program by March 2024 and every five years after. The bill passed on party lines in both the House and Senate. Support from the real estate community for the underlying policy despite the imposition of the document recording fee was important for the bill's momentum.

## **Mobile Homes**

**Relocation assistance for tenants of closed manufactured/mobile home parks:** [HB 1771](#) sponsored by Representative Brandy Donaghy (D- 44<sup>th</sup> LD) extends the time period in which tenants have to take necessary actions to receive relocation assistance from within 90 days of receiving the initial cash assistance to until the park closure date. Tenants who reinstall their home within 12 months are also eligible to receive the remainder of eligible assistance.

**Sale or lease of manufactured/mobile home communities:** [E2SSB 5198](#) sponsored by Senator Noel Frame (D- 36<sup>th</sup> LD) sets forth notice requirements when a landlord plants to close or convert a manufactured/mobile home community (MHC). It requires landlords to provide two years' notice for closure or conversion of an MHC and written notice of opportunity to compete to purchase when selling or leasing the MHC.

### Product Stewardship

**Responsible environmental management of batteries:** [E2SSB 5144](#) sponsored by Senator Derek Stanford (D- 1<sup>st</sup> LD) requires each producer selling or distributing covered batteries in Washington to participate in and fund an approved battery stewardship organization. Each battery stewardship organization must submit a plan for covered portable batteries to the Department of Ecology for approval by July 1, 2026, or within six months of program rules. Battery stewardship programs must provide for the collection of all covered batteries. Local government facilities may collect batteries at their own expense and must process them in a manner that meets the same standards as those implemented by battery stewardship organizations.

### Funding for Co-responder Teams

The enacted 2023-25 Operating budget provides \$4 million to the Association of Washington Cities to assist cities with the costs of implementing alternative response teams. Additionally, as part of the Legislature's effort to fund implementation of the statewide 988 behavioral health crisis system, \$45,260,000 is appropriated for expansion of local behavioral health mobile crisis response team capacity and \$4 million is set aside for grants to existing or new crisis response teams to meet state standards and criteria for receiving an endorsement to participate in the 988 system.

### Reproductive Healthcare

In the wake of the United States Supreme Court's *Dobbs* decision last year which overturned *Roe v. Wade*, Democrats in the Legislature prioritized preserving access to reproductive healthcare for the 2023 legislative session. Although [legislation](#) to send a constitutional amendment to the voters to address reproductive freedom did not advance, several other policy actions were passed. Governor Inslee has signed five bills into law:

- [SB 5768](#) sponsored by Senator Karen Keiser (D- 33<sup>rd</sup> LD) allows the Department of Corrections to distribute the medication mifepristone to health care providers. In anticipation of a federal court ruling invalidating the Food and Drug Administration's approval of the drug, the state stockpiled 30,000 doses, estimated to last three years. The bill authorizes the DOC to engage in activity constituting the practice of a pharmacy and may exercise that authority for the benefit of any person, even if not in DOC custody.

- [ESHB 1469](#) sponsored by Representative Drew Hansen (D- 23<sup>rd</sup> LD) prohibits compliance with out-of-state subpoenas related to abortion and gender-affirming care services and prevents cooperation with out-of-state investigations. It also protects providers from harassment for providing these services.
- [ESHB 1340](#) sponsored by Representative Marcus Riccelli (D- 3<sup>rd</sup> LD) protects healthcare providers from disciplinary action or having their licenses revoked for “unprofessional conduct” if the care provided is legal in the state, regardless of where the patient resides.
- [ESHB 1155](#) sponsored by Representative Vandana Slatter (D- 48<sup>th</sup> LD) establishes consumer rights regarding health data and prohibits selling consumer health data without authorization. It also prohibits geofencing when used to identify or track consumers seeking healthcare services.
- [SB 5242](#) sponsored by Senator Annette Cleveland (D- 49<sup>th</sup> LD) eliminates cost-sharing for abortion care. The Legislature has allocated over \$15 million in the 2023-25 budget to support abortion care, including grants to help clinics treating patients from other states.

### **Salmon Habitat Restoration**

The Legislature made significant investments in salmon recovery and habitat restoration in the enacted biennial budgets. Highlights include:

- \$95 million to the Salmon Recovery Funding Board, and an additional \$25 million for the Board to develop and administer a grant category specific to riparian areas.
- \$25 million for the Conservation Commission to provide grants for riparian restoration projects with landowners.
- \$3 million to the Conservation Commission for the salmon riparian restoration program.
- \$59,165,000 for Puget Sound Restoration and Salmon Recovery grants
- \$480,000 for a facilitated process on proposed changes in policy and spending priorities to improve riparian habitat.
- \$8.5 million for implementing the Voluntary Stewardship Program

### **Tax Structure Reform**

In March, the Washington State Supreme Court upheld the state’s Capital Gains tax, an excise tax on profits from the sale of bonds and stocks above \$250,000, as constitutional. Democrats hoped to advance additional [legislation](#) to reform the state’s taxing structure by creating a one-percent tax on financial intangible assets over \$250 million, but the proposal did not see much progress in the committee process. As previously mentioned, the Legislature also considered a bill to allow local governments to impose an additional 0.25 percent real estate excise tax to fund affordable housing, but the proposal was not enacted.

### **Workforce Development, Worker Retraining, and Employment Job Skills Training**

The 2023-25 biennial Operating budget appropriates \$68.7 million for the Workforce Training and Education Board, including specific provisions for the healthcare workforce and apprenticeship programs. Further, \$4 million in funding is provided to implement [2SHB 1013](#), a bipartisan bill establishing five regional apprenticeship program sites, three in western Washington and two in eastern Washington.

### **Zoning and Land Use**



In addition to the housing-related land use bills noted above, the Legislature considered several proposals concerning development regulations and local government permitting. In the first category, [HB 1167](#) sponsored by Representative Davina Duerr (D- 1<sup>st</sup> LD) would have required local governments to only apply administrative design review for housing development permit applications to determine compliance with design standards. In the latter category, [HB 1401](#) sponsored by Representative Cyndy Jacobsen (R- 25<sup>th</sup> LD) would have provided that local governments could adopt expedited permitting processes for housing, while [HB 1611](#) sponsored by Representative Julia Reed (D- 36<sup>th</sup> LD) and [HB 1519](#) sponsored by Representative Andrew Barkis (R- 2<sup>nd</sup> LD) would have modified the requirements for applicant notification regarding completeness of permit applications. Ultimately, none of these proposals were passed into law.

The Legislature did pass [ESHB 1293](#) sponsored by Representative Mark Klicker (R- 16<sup>th</sup> LD), which requires cities and counties planning under the Growth Management Act (GMA) to apply only clear and objective design review standards to the exterior of new development, except for designated landmarks or historical districts. The bill clarifies project review provisions and adds expedited review of project permit applications that include affordable housing.

## General Government

**Apprenticeship utilization requirements:** [ESHB 1050](#) sponsored by Representative Marcus Riccelli (D- 3<sup>rd</sup> LD) requires public works contracts awarded by a municipality estimated to cost more than \$2 million to include specifications that no less than 15 percent of the labor hours be performed by apprentices beginning Jul 1, 2024. Beginning July 1, 2026, until July 1, 2028, apprenticeship utilization requirements apply to public works contracts estimated to cost over \$1.5 million. Beginning July 1, 2028, apprenticeship utilization requirements apply to public works contracts estimated to cost over \$1 million.

**Property tax exemptions for service-connected disabled veterans and senior citizens:** [SHB 1355](#) sponsored by Representative Sharon Wylie (D- 49<sup>th</sup> LD) extends qualification for the senior citizen, disabled individuals, and qualifying veterans property tax relief program by increasing the calculation of income thresholds based on county median household income. Income thresholds are to be adjusted every three years, and those not adjusted based on county median income are to be adjusted for inflation. It allows individuals to qualify for the property tax exemption if their income is increased as a result of cost-of-living adjustments to social security or supplemental security for taxes collected in 2024.

## State Leadership Announcements

On May 1<sup>st</sup>, Governor Jay Inslee announced that he would not seek a fourth term. He is one of only two Washington Governors to have served three consecutive terms. On May 2<sup>nd</sup>, Attorney General Bob Ferguson announced that he had initiated an exploratory campaign for a potential gubernatorial bid.

Additionally, on the final day of the legislative session, House Minority Leader J.T. Wilcox (R- 2<sup>nd</sup> LD) and Deputy Minority Leader Joel Kretz (R- 7<sup>th</sup> LD) announced that they would be stepping down from their leadership positions. On April 24<sup>th</sup>, the House Republican Caucus met and elected new leaders. Representative Drew Stokesbary (R- 31<sup>st</sup> LD) and Representative Mike

Steele (R- 12<sup>th</sup> LD) were selected to be the new Minority Leader and Deputy Minority Leader, respectively. Representative Stokesbary has been the House Republican lead on the Operating budget for the last four years and Representative Steele has been the House Republican lead on the Capital budget for the last two years.

### Kenmore Bill Tracking List – Bills that Passed the Legislature

| Bill #                                   | Abbrev. Title               | Short Description   | Status        | Sponsor   | Position |
|--|-----------------------------|---|---------------|-----------|----------|
| <a href="#">ESHB 1042</a>                | Use of existing buildings   | Concerning the use of existing buildings for residential purposes.  | C 285<br>L 23 | Walen     |          |
| <a href="#">ESHB 1050</a>                | Apprenticeship utilization  | Expanding apprenticeship utilization requirements.  | C 342<br>L 23 | Riccelli  |          |
| <a href="#">E2SHB 1110</a><br>(SSB 5190) | Middle housing              | Increasing middle housing in areas traditionally dedicated to single-family detached housing.   | C 332<br>L 23 | Bateman   |          |
| <a href="#">E2SHB 1181</a><br>(SSB 5203) | Climate change/planning     | Improving the state's response to climate change by updating the state's planning framework.  | C 228<br>L 23 | Duerr     | Support  |
| <a href="#">SHB 1240</a> (SB 5265)       | Firearms/assault weapons    | Establishing firearms-related safety measures to increase public safety.  | C 162<br>L 23 | Peterson  |          |
| <a href="#">EHB 1337</a>                 | Accessory dwelling units    | Expanding housing options by easing barriers to the construction and use of accessory dwelling units.   | C 334<br>L 23 | Gregerson |          |
| <a href="#">SHB 1355</a>                 | Property tax exemptions     | Updating property tax exemptions for service-connected disabled veterans and senior citizens.   | C 147<br>L 23 | Wylie     | Support  |
| <a href="#">2SHB 1474</a><br>(SSB 5496)  | Covenant homeownership prg. | Creating the covenant homeownership account and program to address the history of housing discrimination due to racially restrictive real estate covenants in Washington state. | C 340<br>L 23 | Taylor    | Support  |
| <a href="#">SHB 1756</a>                 | Energy/tax                  | Supporting clean energy through tax changes that increase revenue to local governments, schools, and impacted communities.  | C 427<br>L 23 | Ramel     |          |
| <a href="#">E2SSB 5045</a>               | ADU rental/property tax     | Incentivizing rental of accessory dwelling units to low-income households.  | C 335<br>L 23 | Kuderer   | Support  |

|  |                             |   |               |          |         |
|--|-----------------------------|---|---------------|----------|---------|
| <a href="#">2SSB 5120</a>                | Crisis relief centers       | Establishing 23-hour crisis relief centers in Washington state.   | C 433<br>L 23 | Dhingra  | Support |
| <a href="#">E2SSB 5144</a>               | Batteries/environment       | Providing for responsible environmental management of batteries.  | C 434<br>L 23 | Stanford | Support |
| <a href="#">SSB 5189</a><br>(HB 1348)    | Behavioral health support   | Establishing behavioral health support specialists.   | C 270<br>L 23 | Trudeau  |         |
| <a href="#">E2SSB 5198</a><br>(SHB 1129) | Mobile home community sales | Concerning the sale or lease of manufactured/mobile home communities and the property on which they sit.    | C 40 L<br>23  | Frame    |         |
| <a href="#">E2SSB 5258</a> (HB 1298)     | Condos and townhouses       | Increasing the supply and affordability of condominium units and townhouses as an option for homeownership. | C 337<br>L 23 | Shewmake |         |
| <a href="#">ESB 5352</a><br>(SHB 1363)   | Vehicular pursuits          | Concerning vehicular pursuits.  | C 235<br>L 23 | Lovick   |         |

### Kenmore Bill Tracking List – Bills that Died

| Bill #                              | Abbrev. Title          | Short Description  | Status          | Sponsor | Position |
|-------------------------------------|------------------------|--|-----------------|---------|----------|
| <a href="#">SHB 1012</a><br>(Dead)  | Extreme weather events | Addressing the response to extreme weather events.   | H Rules 3C      | Leavitt | Support  |
| <a href="#">2SHB 1025</a><br>(Dead) | Police/private actions | Creating a private right of action for harm from violations of the state Constitution or state law by peace officers.                | H Rules C       | Thai    |          |
| <a href="#">HB 1054</a><br>(Dead)   | Occupancy limits       | Addressing the authority of owners' associations in common interest communities to regulate or limit occupancy by unrelated persons. | H Rules 3C      | Walen   |          |
| <a href="#">HB 1099</a><br>(Dead)   | Public works wages     | Requiring certain wages in public works contracts to be at least the prevailing wage in effect when the work is performed.           | H Cap<br>Budget | Berry   |          |

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| <a href="#">SHB 1111</a><br>(Dead)                 | Housing benefit districts    | Concerning housing benefit districts.   | H Cap Budget     | Ryu       | Support |
| <a href="#">SHB 1124</a><br>(Dead)                 | Residential rent and fees    | Protecting tenants from excessive rent and related fees by providing at least six months' notice for rent increases over a certain amount, allowing tenants the right to terminate a tenancy without penalty, and limiting late fees. | H Rules C        | Peterson  | Support |
| <a href="#">SHB 1129</a><br>(Dead)<br>(E2SSB 5198) | Mobile home community sales  | Concerning the sale or lease of manufactured/mobile home communities and the property on which they sit.  | H Rules R        | Gregerson | Support |
| <a href="#">2SHB 1131</a><br>(Dead)<br>(SSB 5154)  | Solid waste management       | Improving Washington's solid waste management outcomes.   | H Rules C        | Berry     | Support |
| <a href="#">HB 1149</a><br>(Dead)<br>(SSB 5202)    | Housing/capital expenditures | Reducing homelessness in Washington state through capital expenditures for programs that address housing insecurity.  | H Cap Budget     | Tharinger | Support |
| <a href="#">E2SHB 1167</a><br>(Dead)               | Residential housing          | Concerning residential housing regulations.   | H Rules 3C       | Duerr     |         |
| <a href="#">HB 1178</a><br>(Dead)<br>(SB 5446)     | Firearms/local government    | Concerning local government authority to regulate firearms.   | H Civil R & Judi | Hackney   | Support |
| <a href="#">SHB 1185</a><br>(Dead)                 | Lighting products            | Reducing environmental impacts associated with lighting products.   | H Rules R        | Hackney   |         |
| <a href="#">ESHB 1245</a><br>(Dead)                | Lot splitting                | Increasing housing options through lot splitting.   | H Rules 3C       | Barkis    |         |

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| (SSB 5364)  |                              |   |                  |          |         |
| <a href="#">HB 1276</a><br>(Dead)<br>(SSB 5235)   | Accessory dwelling units     | Concerning accessory dwelling units.  | H Housing        | Pollet   |         |
| <a href="#">HB 1298</a><br>(Dead)<br>(E2SSB 5258) | Condos and townhouses        | Increasing the supply and affordability of condominium units and townhouses as an option for homeownership.   | H Civil R & Judi | Hutchins |         |
| <a href="#">HB 1343</a><br>(Dead)                 | Rent relief & housing        | Providing local governments with options to grant rent relief and preserve affordable housing in their communities.   | H Housing        | Kloba    | Support |
| <a href="#">HB 1348</a><br>(Dead)<br>(SSB 5189)   | Behavioral health support    | Establishing behavioral health support specialists.   | H HC/Wellness    | Callan   |         |
| <a href="#">SHB 1351</a><br>(Dead)<br>(SB 5456)   | Minimum parking requirements | Prohibiting the imposition of minimum parking requirements except under certain circumstances.  | H Rules R        | Reed     |         |
| <a href="#">SHB 1363</a><br>(Dead)<br>(ESB 5352)  | Vehicular pursuits           | Concerning vehicular pursuits.  | H Rules R        | Rule     |         |
| <a href="#">SHB 1388</a><br>(Dead)                | Residential rent practices   | Protecting tenants by prohibiting predatory residential rent practices and by applying the consumer protection act to the residential landlord-tenant act and the manufactured/mobile home landlord-tenant act. | H Approps        | Macri    | Support |
| <a href="#">2SHB 1389</a><br>(Dead)               | Residential rent increases   | Concerning residential rent increases under the residential landlord-tenant act and the   | H Rules R        | Ramel    | Support |

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| (SB 5435)  |                              | manufactured/mobile home landlord-tenant act.  |                |         |         |
| <a href="#">2SHB 1391</a><br>(Dead)              | Energy in buildings          | Concerning energy in buildings.  | H Rules 3C     | Ramel   |         |
| <a href="#">2SHB 1433</a><br>(Dead)              | Energy labeling/residential  | Concerning energy labeling of residential buildings.   | H Rules 3C     | Duerr   |         |
| <a href="#">2SHB 1445</a><br>(Dead)              | Law enf. misconduct          | Concerning law enforcement and local corrections agency misconduct through investigations and legal actions. | H Rules C      | Hansen  |         |
| <a href="#">HB 1517</a><br>(Dead)<br>(ESSB 5466) | Transit-oriented development | Promoting transit-oriented development.  | H Housing      | Reed    | Support |
| <a href="#">HB 1553</a><br>(Dead)                | Batteries/environment        | Providing for responsible environmental management of batteries.   | H Env & Energy | Street  | Support |
| <a href="#">SHB 1596</a><br>(Dead)               | Affordable housing incentive | Providing local governments with options to increase affordable housing in their communities.                | H Rules C      | Kloba   | Support |
| <a href="#">HB 1625</a><br>(Dead)<br>(SB 5615)   | Rent controls/local gov.     | Enabling local governments to plan and adopt programs to stabilize and control rents.                        | H Housing      | Pollet  |         |
| <a href="#">2SHB 1628</a><br>(Dead)              | Real estate excise tax       | Increasing the supply of affordable housing by modifying the state and local real estate excise tax.         | H Rules R      | Chopp   | Support |
| <a href="#">SHB 1633</a><br>(Dead)               | Homes for heroes program     | Creating a homes for heroes program.   | H Cap Budget   | Connors |         |
| <a href="#">HB 1670</a><br>(Dead)                | Property tax limit factor    | Raising the limit factor for property taxes.   | H Rules R      | Ormsby  |         |

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| <a href="#">HB 1723</a><br>(Dead)<br>(SSB 5651)    | GMA/equity and env. justice  | Concerning equity and environmental justice in the growth management act.  | H Local Govt   | Duerr   |         |
| <a href="#">SHB 1807</a><br>(Dead)                 | Speed safety cameras         | Concerning speed safety camera systems on state highways.  | H Rules R      | Fey     |         |
| <a href="#">HB 1810</a><br>(Dead)                  | Mobile home rental assist.   | Providing rental assistance to manufactured/mobile home park tenants.  | H Housing      | Orcutt  | Support |
| <a href="#">HB 1817</a><br>(Dead)<br>(SB 5741)     | Housing gap voucher pilot    | Establishing a housing gap voucher pilot program.  | H Housing      | Rule    |         |
| <a href="#">SSB 5057</a><br>(Dead)                 | Energy standards/commercial  | Creating a work group to evaluate the costs of the state energy performance standard for covered commercial buildings. | S Rules X      | Mullet  |         |
| <a href="#">SB 5059</a><br>(Dead)                  | Prejudgment interest         | Concerning prejudgment interest.   | S Ways & Means | Kuderer | Oppose  |
| <a href="#">SB 5118</a><br>(Dead)                  | Multifamily property tax ex. | Concerning modifying the multifamily property tax exemption to promote development of long-term affordable housing.    | S Housing      | Kuderer |         |
| <a href="#">SSB 5154</a><br>(Dead)<br>(2SHB 1131)  | Solid waste management       | Improving Washington's solid waste management outcomes.  | S Ways & Means | Rolfes  | Support |
| <a href="#">SSB 5190</a><br>(Dead)<br>(E2SHB 1110) | Middle housing               | Increasing middle housing in areas traditionally dedicated to single-family detached housing.                          | S Ways & Means | Trudeau |         |
| <a href="#">SSB 5202</a><br>(Dead)<br>(HB 1149)    | Housing/capital expenditures | Reducing homelessness in Washington state through capital expenditures for programs that address housing insecurity.   | S Ways & Means | Trudeau | Support |

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| <a href="#">SSB 5235</a><br>(Dead)<br>(HB 1276)  | Accessory dwelling units     | Concerning accessory dwelling units.  | S Rules 3        | Shewmake |         |
| <a href="#">SB 5265</a><br>(Dead)<br>(SHB 1240)  | Firearms/assault weapons     | Establishing firearms-related safety measures to increase public safety.  | S Law & Justice  | Kuderer  |         |
| <a href="#">SSB 5303</a><br>(Dead)               | Public works trust account   | Creating the public works assistance revolving account.   | S Rules 3        | Mullet   |         |
| <a href="#">ESSB 5334</a><br>(Dead)              | Affordable housing funding   | Providing a local government option for the funding of essential affordable housing programs.   | S Rules 3        | Lovelett | Support |
| <a href="#">SSB 5361</a><br>(Dead)<br>(HB 1446)  | Law enf. officers/increase   | Incentivizing cities and counties to increase employment of commissioned law enforcement officers.                                    | S Ways & Means   | Holy     |         |
| <a href="#">SB 5418</a><br>(Dead)                | Definition of public work    | Expanding the definition of public work.  | S State Govt & E | Conway   |         |
| <a href="#">SB 5435</a><br>(Dead)<br>(2SHB 1389) | Residential rent increases   | Concerning residential rent increases under the residential landlord-tenant act and the manufactured/mobile home landlord-tenant act. | S Housing        | Trudeau  | Support |
| <a href="#">SB 5446</a><br>(Dead)<br>(HB 1178)   | Firearms/local government    | Concerning local government authority to regulate firearms.   | S Law & Justice  | Nguyen   |         |
| <a href="#">ESSB 5466</a><br>(Dead)<br>(HB 1517) | Transit-oriented development | Promoting transit-oriented development.   | S Rules 3        | Liias    |         |
| <a href="#">SB 5469</a><br>(Dead)                | Covenant homeownership prg.  | Creating the covenant homeownership account and program to address the history of housing discrimination due to                       | S Housing        | Lovick   | Support |



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|   |                             | racially restrictive real estate covenants in Washington state.   |                  |             |         |
| <a href="#">SSB 5496</a><br>(Dead)<br>(2SHB 1474) | Covenant homeownership prg. | Creating the covenant homeownership account and program to address the history of housing discrimination due to racially restrictive real estate covenants in Washington state. | S Ways & Means   | Lovick      | Support |
| <a href="#">SB 5535</a><br>(Dead)                 | Air pollution/human health  | Protecting human health from excessive air pollution.   | S Environment, E | Stanford    | Support |
| <a href="#">2E2SSB 5536</a><br>(Dead)             | Controlled substances       | Concerning controlled substances, counterfeit substances, and legend drug possession and treatment.   | Del to Gov       | Robinson    |         |
| <a href="#">SB 5568</a><br>(Dead)                 | Liquor revenue/local gov.   | Restoring liquor sales revenue distributions to local governments.  | S Labor & Comm   | Wagoner     |         |
| <a href="#">SSB 5609</a><br>(Dead)                | Housing approval            | Establishing housing approval requirements that will eliminate Washington's housing shortage.   | S Ways & Means   | Braun       |         |
| <a href="#">SB 5615</a><br>(Dead)<br>(HB 1625)    | Rent controls/local gov.    | Enabling local governments to plan and adopt programs to stabilize and control rents.   | S Loc Gov, Land  | Valdez      |         |
| <a href="#">SB 5618</a><br>(Dead)                 | Local property tax limit    | Increasing the local property tax revenue growth limit.   | S Loc Gov, Land  | Kuderer     |         |
| <a href="#">SSB 5651</a><br>(Dead)<br>(HB 1723)   | GMA/equity and env. justice | Concerning equity and environmental justice in the growth management act.   | S Ways & Means   | Lovelett    |         |
| <a href="#">SSB 5697</a><br>(Dead)                | Mobile home park rates      | Authorizing the utilities and transportation commission to regulate the rates and services of all persons engaging in   | S Ways & Means   | Van De Wege |         |

|                                   |              |   |                |          |         |
|-----------------------------------|--------------|---|----------------|----------|---------|
|                                   |              | the business of acting as a landlord for a mobile home park, manufactured housing community, or manufactured/mobile home community. |                |          |         |
| <a href="#">SB 5770</a><br>(Dead) | Property tax | Providing state and local property tax reform.  | S Ways & Means | Pedersen | Support |